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The Department of State BULLETIN, a weekly publication compiled and edited in the Division of Research and Publication, Office of Public Affairs, provides the public and interested agencies of the Government with information on developments in the field of foreign relations and on the work of the Department of State and the Foreign Service. The BULLETIN includes press releases on foreign policy issued by the White House and the Department, and statements and addresses made by the President and by the Secretary of State and other officers of the Department, as well as special articles on various phases of international affairs and the functions of the Department. Information concerning treaties and international agreements to which the United States is or may become a party and treaties of general international interest is included.

Publications of the Department, cumulative lists of which are published at the end of each quarter, as well as legislative material in the field of international relations, are listed currently.

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United Nations Conference on International Organization

AGREEMENT ON VOTING IN THE SECURITY COUNCIL

Statement by the Secretary of State

[Released to the press by the United Nations Conference on International Organization June 7]

Consultations among the four sponsoring powers and France have resulted in agreement on the provisions for voting in the Security Council.

The agreement reached preserves the principle of the unanimity of the permanent members of the Council in all actions taken by the Council, while at the same time assuring freedom of hearing and discussion in the Council before action is taken. We believe both are essential to the success of the World Organization.

Under the terms of the agreement, unanimity of the permanent members of the Council is required as provided by the Crimea Agreement in all decisions relating to enforcement action and—except as to parties to disputes—in all decisions for peaceful settlement. But this requirement of unanimity does not apply to the right of any nation to bring a dispute before the Council as provided by Paragraph 2, Section A, Chapter VIII, and no individual member of the Council can alone prevent a consideration and discussion by the Council of a dispute or situation thus brought to its attention.

The successful conclusion of discussions on this matter among the four sponsoring powers and France offers a new and heartening proof of the will and ability of the Allied nations which have fought side by side in the war to construct, upon the strong foundation of their wartime collaboration, a workable and effective and lasting peace in which they will labor together with mutual understanding and a common purpose.

The same spirit which has now been so effectively demonstrated by the powers which have taken part in these conversations will, I feel certain, motivate the entire Conference and make possible the speedy and successful conclusion of its task, in which I have always had an unswerving faith and confidence.

Structure and Procedures of the Security Council

STATEMENT BY THE CHAIRMAN OF TECHNICAL COMMITTEE III/1[1]

There is attached a "Statement by the Delegations of the Four Sponsoring Governments on the Voting Procedure in the Security Council". This statement has been prepared in response to a questionnaire submitted, on May 22, 1945, to the representatives of the four sponsoring Governments on Subcommittee III/1/B by the other members of the Subcommittee. It has now been presented to Subcommittee III/1/B.

In view of the great interest which has been shown in the question of the voting procedure in the Security Council, and on the recommendation of Subcommittee III/1/B, I am releasing this statement to the full membership of Committee III/1, and simultaneously to the press.

I am informed that the Delegation of France associates itself completely with this statement of the four sponsoring Governments.

JOHN SOFIANOPOULOS,
Chairman, Committee III/1.

[1] John Sofianopoulos, Minister for Foreign Affairs for Greece and Head of the Greek Delegation to the United Nations Conference.

Memorandum From the Secretary of Subcommittee III/1/B

To: Members on Subcommittee III/1/B of the Delegations of China, United Kingdom, Union of Soviet Socialist Republics, United States of America

FROM: Secretary of Subcommittee III/1/B

SUBJECT: Questionnaire on Exercise of Veto in Security Council

At the meeting on May 19, 1945 of Subcommittee III/1/B it was agreed that representatives of delegations other than those of the sponsoring Governments (China, Union of Soviet Socialist Republics, United Kingdom, United States of America) would submit a list of questions respecting the Dumbarton Oaks Proposals and the amendments thereto proposed by the four sponsoring Governments respecting the exercise of veto in the Security Council, which questions were to be collated by the committee secretariat and submitted for answer to the delegates of the sponsoring Governments who are members of Subcommittee III/1/B.

By noon May 21 (the time limit agreed on) all of the representatives concerned filed their questions or indicated they had no additional ones to submit over and above those presented by others. The questions filed on the above subject accordingly have been consolidated into the attached questionnaire. Certain questions on points not pertaining strictly to the exercise of veto have been omitted from this questionnaire.

PAUL G. PENNOYER
Secretary, Subcommittee III/1/B

Questionnaire on Exercise of Veto in Security Council[1]

Under new Paragraph 1 of Chapter VIII (A), prepared by the sponsoring Governments:

"Without prejudice to the provisions of Paragraphs 1–5 below, the Security Council should be empowered, if all the parties so request, to make recommendations to the parties to any dispute with a view to its settlement in accordance with the principles laid down in Chapter II, Paragraph 3."

(1) If the parties to a dispute request the Security Council to make recommendations with a view to its settlement, would the veto be applicable to a decision of the Security Council to exercise its power to investigate the dispute for that purpose?

(2) If the Security Council has investigated a dispute under this paragraph, would the veto be applicable to a decision of the Security Council to recommend to the parties certain terms, with a view to the settlement of the dispute?

Under present Paragraph 1 of Chapter VIII (A):

"1. The Security Council should be empowered to investigate any dispute, or any situation which may lead to international friction or give rise to a dispute, in order to determine whether its continuance is likely to endanger the maintenance of international peace and security."

(3) If the attention of the Security Council is called to the existence of a dispute, or a situation which may give rise to a dispute, would the veto be applicable to a decision of the Security Council to exercise its power to investigate the dispute or situation?

(4) If the Security Council has investigated the dispute, would the veto be applicable to a decision by the Security Council that the continuance of the dispute is likely to endanger the maintenance of international peace and security?

Under present Paragraph 3 of Chapter VIII (A):

"3. The parties to any dispute the continuance of which is likely to endanger the maintenance of international peace and security should obligate themselves, first of all, to seek a solution by negotiation, mediation, conciliation, arbitration or judicial settlement, or other peaceful means of their own choice. The Security Council should call upon the parties to settle their dispute by such means."

[1] It is provided under chapter VI (C), paragraph 3, that in all questions under VIII (A) a party to a dispute shall abstain from voting. Therefore unless otherwise indicated the veto referred to in each question is the veto of a permanent member who is not a party to a dispute.

(5) If the Security Council has decided that the continuance of a dispute is likely to endanger the maintenance of international peace and security, would the veto be applicable to a decision of the Security Council to call upon the parties to settle their dispute by the means indicated in Paragraph 3?

Under Paragraph 4 of Chapter VIII (A) as proposed to be amended by the sponsoring Governments:

"4. If, nevertheless, parties to a dispute of the nature referred to in Paragraph 3 above fail to settle it by the means indicated in that paragraph, they should obligate themselves to refer it to the Security Council. If the Security Council deems that the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under paragraph 5 or whether itself to recommend such terms of settlement as it may consider appropriate."

(6) If a dispute is referred to the Security Council by the parties under this paragraph, would the veto be applicable to a decision by the Security Council under the second sentence of this paragraph that it deems the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security?

(7) If the Security Council deems that the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, would the veto be applicable to a decision of the Security Council under the second sentence of this paragraph to take action under Paragraph 5?

(8) If the Security Council deems that the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, would the veto be applicable to a decision of the Security Council under the second sentence of this paragraph to recommend to the parties such terms of settlement as it considers appropriate?

Under Paragraph 5 of Chapter VIII (A):

"5. The Security Council should be empowered, at any stage of a dispute of the nature referred to in Paragraph 3 above, to recommend appropriate procedures or methods of adjustment."

(9) Would the veto be applicable to a decision of the Security Council, at any stage of a dispute, to recommend to the parties appropriate procedures or methods of adjustment?

Under Paragraph 6 of Chapter VIII (A):

"6. Justiciable disputes should normally be referred to the International Court of Justice. The Security Council should be empowered to refer to the Court, for advice, legal questions connected with other disputes."

(10) Would the veto be applicable to a decision of the Security Council under the first sentence of this paragraph that a dispute is of a justiciable character?

(11) Would the veto be applicable to a decision of the Security Council under the first sentence of this paragraph to refer a justiciable dispute to the International Court of Justice?

(12) Would the veto be applicable to a decision of the Security Council to deal with a justifiable dispute by some other means of adjustment?

(13) Would the veto be applicable to a decision of the Security Council to refer to the International Court of Justice a legal question connected with a non-justiciable dispute?

Under Paragraph 1 of Chapter VIII (B) as proposed by the four sponsoring Governments:

"Section B. Determination of threats to the peace or acts of aggression and action with respect thereto. 1. Should the Security Council deem that a failure to settle a dispute in accordance with procedures indicated in Paragraph 3 of Section A, or in accordance with its recommendations made under Paragraphs 4 or 5 of Section A, constitutes a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organization."

(14) Would the veto be applicable to a decision of the Security Council that it deemed that a failure would constitute a threat to the maintenance of peace and security?

(15) Would the veto be applicable to a decision of the Security Council that it should take any measures necessary for the maintenance of international peace and security?

Under new Paragraph 2 of Chapter VIII (B) as proposed by the four sponsoring Governments:

"2. In general the Security Council should determine the existence of any threat to the peace, breach of the peace or act of aggression and should make recommendations or decide upon the measures set forth in Paragraphs 3 and 4 of this section to be taken to maintain or restore peace and security."

(16) Would the veto be applicable to a decision of the Security Council that it determined the existence of any threat to the peace, etc.?

Under new paragraph proposed by the four sponsoring Governments to be inserted between Paragraphs 2 and 3 of Chapter VIII (B):

"Before making the recommendations or deciding upon the measures for the maintenance or restoration of peace and security in accordance with the provisions of Paragraph 2, the Security Council may call upon the parties concerned to comply with such provisional measures as it may deem necessary or desirable in order to prevent an aggravation of the situation. Such provisional measures should be without prejudice to the rights, claims or positions of the parties concerned. Failure to comply with such provisional measures should be duly taken account of by the Security Council."

(17) Would the veto be applicable to a decision of the Security Council that it may call upon the parties, etc.?

(18) Would the veto be applicable to a decision of the Security Council that failure to comply should be duly taken account of, etc.?

Under the second paragraph of Chapter VI (C):

"Section C. Voting. 1. Each member of the Security Council should have one vote.

"2. Decisions of the Security Council on procedural matters should be made by an affirmative vote of seven members."

(19) In case a decision has to be taken as to whether a certain point is a procedural matter, is that preliminary question to be considered in itself as a procedural matter or is the veto applicable to such preliminary question?

Under the third paragraph of Chapter VI (C):

"3. Decisions of the Security Council on all other matters should be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VIII, Section A, and under the second sentence of Paragraph 1 of Chapter VIII, Section C, a party to a dispute should abstain from voting."

(20) If a motion is moved in the Security Council on a matter, other than a matter of procedure, under the general words in Paragraph 3, would the abstention from voting of any one of the permanent members of the Security Council have the same effect as a negative vote by that member in preventing the Security Council from reaching a decision on the matter?

(21) If one of the permanent members of the Security Council is a party to a dispute, and in conformity with the proviso to Paragraph 3 has abstained from voting on a motion on a matter, other than a matter of procedure, would its mere abstention prevent the Security Council from reaching a decision on the matter?

(22) In case a decision has to be made under Chapter VIII, Section A, or under the second sentence of Chapter VIII, Section C, Paragraph 1, will a permanent member of the Council be entitled to participate in a vote on the question whether that permanent member is itself a party to the dispute or not?

ADDENDUM

To: Members on Subcommittee III/1/B of the Delegations of China, United Kingdom, Union of Soviet Socialist Republics, United States of America

From: Secretary of Subcommittee III/1/B

Subject: Questionnaire on exercise of veto in Security Council

(23) In view of questions raised by several delegations, the Greek Delegation would like to be informed whether, under Chapter 10, Paragraph 1, of the Dumbarton Oaks Proposals as amended by the four Governments, the recommendation of the Security Council to the Assembly in respect of the election of the Secretary General and his deputies is subject to veto.

Paul G. Pennoyer
Secretary, Subcommittee III/1/B

Statement by the Delegations of the Four Sponsoring Governments[1] on Voting Procedure in the Security Council

Specific questions covering the voting procedure in the Security Council have been submitted by a subcommittee of the Conference committee on structure and procedures of the Security Council to the delegations of the four governments sponsoring the Conference—the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the Republic of China. In dealing with these questions, the four delegations desire to make the following statement of their general attitude towards the whole question of unanimity of permanent members in the decisions of the Security Council.

I

1. The Yalta voting formula recognizes that the Security Council, in discharging its responsibilities for the maintenance of international peace and security, will have two broad groups of functions. Under chapter VIII, the Council will have to make decisions which involve its taking direct measures in connection with settlement of disputes, adjustment of situations likely to lead to disputes, determination of threats to the peace, removal of threats to the peace, and suppression of breaches of the peace. It will also have to make decisions which do not involve the taking of such measures. The Yalta formula provides that the second of these two groups of decisions will be governed by a procedural vote—that is, the vote of any seven members. The first group of decisions will be governed by a qualified vote—that is, the vote of seven members, including the concurring votes of the five permanent members, subject to the proviso that in decisions under section A and a part of section C of chapter VIII parties to a dispute shall abstain from voting.

2. For example, under the Yalta formula a procedural vote will govern the decisions made under the entire section D of chapter VI. This means that the Council will, by a vote of any seven of its members, adopt or alter its rules of procedure; determine the method of selecting its president; organize itself in such a way as to be able to function continuously; select the times and places of its regular and special meetings; establish such bodies or agencies as it may deem necessary for the performance of its functions; invite a member of the organization not represented on the Council to participate in its discussions when that member's interests are specially affected; and invite any state when it is a party to a dispute being considered by the Council to participate in the discussion relating to that dispute.

3. Further, no individual member of the Council can alone prevent consideration and discussion by the Council of a dispute or situation brought to its attention under paragraph 2, section A, chapter VIII. Nor can parties to such dispute be prevented by these means from being heard by the Council. Likewise, the requirement for unanimity of the permanent members cannot prevent any member of the Council from reminding the members of the Organization of their general obligations assumed under the Charter as regards peaceful settlement of international disputes.

4. Beyond this point, decisions and actions by the Security Council may well have major political consequences and may even initiate a chain of events which might, in the end, require the Council under its responsibilities to invoke measures of enforcement under section B, chapter VIII. This chain of events begins when the Council decides to make an investigation, or determines that the time has come to call upon states to settle their differences, or makes recommendations to the parties. It is to such decisions and actions that unanimity of the permanent members applies, with the important proviso, referred to above, for abstention from voting by parties to a dispute.

5. To illustrate: In ordering an investigation, the Council has to consider whether the investigation—which may involve calling for reports, hearing witnesses, dispatching a commission of inquiry, or other means—might not further aggravate the situation. After investigation, the Council must determine whether the continuance of the situation or dispute would be likely to endanger international peace and security. If it so determines, the Council would be under obligation to take further steps. Similarly, the decision to

(Continued on page 1087)

[1] The United States, the United Kingdom, the Union of Soviet Socialist Republics, and the Republic of China.

INVITATION TO THE KINGDOM OF DENMARK

Letter From the Norwegian Delegation to the Secretary of State

[Released to the press by the United Nations Conference on International Organization June 5]

NORWEGIAN DELEGATION

San Francisco, Cal., June 1, 1945.

MY DEAR MR. SECRETARY:

Referring to our conversation this afternoon and to Mr. Lie's letter to you of May 5th, last, I should be grateful to you for placing before the appropriate body of the Conference the question of extending an invitation to the Kingdom of Denmark to send a delegation to San Francisco.

In this connection I beg to make the following observations:

Owing to her geographical and military situation Denmark was not in a position to resist the aggressor who wantonly and without any warning attacked and occupied Danish soil.

But no one who has followed developments in Denmark can be in doubt as to where the Danish people stood. Even if their country was conquered physically, the spirit of the people remained unbroken. Through ever increasing underground activities and sabotage the Danes greatly harassed and hampered the invaders, and the effectiveness of their resistance has been recognized and lauded among others by the Supreme Military Command of the Allies.

Even if circumstances prevented Denmark from becoming a member of the United Nations, surely she has been with us in spirit all along.

The Danish Minister in Washington, Henrik de Kauffmann, who through these years of bondage has been voicing the true feelings and aspirations of the Danish people, from the very first has given expression to their desire to join this great association of freedom- and justice-loving nations.

And when the other day a free Danish Government was once more established in Copenhagen under the leadership of Prime Minister Buhl, its first act was to confirm this wish of the Danish people to become formally a member of the United Nations.

May I respectfully express the hope that this matter may be acted upon as soon as circumstances permit. There is a natural desire on the part of our Danish friends to be given an opportunity to take part in the remaining proceedings of the Conference.

I remain, my dear Mr. Secretary,

Very sincerely yours,

WILHELM MORGENSTIERNE[1]

His Excellency EDWARD R. STETTINIUS, Jr.,
Chairman of the Delegation of the United States of America, San Francisco, Cal.

Action by Executive Committee

[Released to the press by the United Nations Conference on International Organization June 5]

At the meeting of the Executive Committee on June 5, the Secretary General of the Conference, Mr. Alger Hiss, read to the Committee the letter of the Norwegian Delegation requesting that the appropriate body of the Conference consider the question of issuing an invitation to the Kingdom of Denmark.

The Earl of Halifax, in an eloquent tribute to the people and Nation of Denmark, moved that an invitation be extended. He pointed to the significance of this day (June 5), which is the ninety-sixth anniversary of Danish Constitution Day.

The motion of Lord Halifax was warmly seconded by Dr. Alexander Loudon (Netherlands Ambassador to the United States) and by M. Joseph Paul-Boncour (former Prime Minister of France), both of whom spoke of the suffering of the people of Denmark, their devotion to the principles of freedom, and declared that by their actions under the most trying conditions the people and Nation of Denmark had earned the right to take their place among the United Nations.

The question was then put to a vote and received the unanimous approval of the Committee. The Committee also approved a suggestion by Mr. Edward R. Stettinius, Jr. (Chairman of the

[1] Norwegian Ambassador to the United States and delegate to the United Nations Conference.

Delegation of the United States), as Chairman of the Committee, that in view of the significance of Danish Constitution Day the Secretary General of the Conference be instructed to poll those delegations not present at the meeting and with their concurrence to issue immediately an invitation to the Kingdom of Denmark.

The poll of delegations was completed at 3:20 p. m. and resulted in unanimous approval of the recommendation that an invitation be extended.

Letter From the Secretary General to the Minister for Foreign Affairs of Denmark

[Released to the press by the United Nations Conference on International Organization June 5]

June 5, 1945

His Excellency
CHRISTMAS MOELLER,
Minister for Foreign Affairs,
Copenhagen, Denmark.

The United Nations Conference on International Organization has today on June 5, the anniversary of the Constitution of Denmark, determined by unanimous action of the Chairmen of Delegations that an invitation should be sent to Denmark to take her seat at the Conference. I therefore have the honor of conveying that invitation.

Inasmuch as Minister of State de Kauffmann is in California at the present time a copy of this message is being delivered to him.

ALGER HISS
Secretary General
United Nations Conference
on International Organization

Acceptance of Invitation by Denmark

STATEMENT BY HEAD OF THE DANISH DELEGATION[1]

Allow me to express my own feelings of gratitude and the gratitude of my colleagues for the words of welcome that Mr. Stettinius addressed to us yesterday afternoon bidding Denmark welcome to this Conference.

His words warmed our hearts, and so did the response they met with from the delegates of all the nations present.

A few weeks ago, shortly after our country's liberation, I was in Denmark on a brief visit. You will understand what it meant to me to be home again and with old friends after long and trying years of separation.

I believe the feelings of all my countrymen when they learned about the invitation to Denmark to take her seat at this Conference were not less deep and somewhat similar to my personal feelings when I returned to Denmark.

We could not have wished to take our seats at this Conference on a more fortunate occasion than yesterday when it was announced that full agreement had been reached among the sponsoring government and France on voting procedure in the Security Council.

We fully share the hopes expressed yesterday by Mr. Stettinius that the task of this Conference will now be accomplished fully and speedily.

As to our views in regard to the specific proposals this Conference has been working on for several weeks before our arrival I need not say much. The views expressed by our brother-nation Norway and several others coincide largely with our own.

Like everybody else we naturally hope to see the Charter as perfect as humanly possible, but there is one thing we consider even more important than the different clauses and paragraphs of the Charter—after all, the Charter is only an instrument; what really counts is the way in which it will be used.

In the hands of a bad musician the most wonderful violin is no good. In the hands of a real artist an ordinary violin can produce wonders.

But let me not take more of your time.

Denmark wants to take her place among the United Nations not because of what we say but because of what we do and what we believe in: our deeds in the past, now and in the future, our whole conception of international relations.

We are happy that it has been felt that we have earned our place as one of the United Nations, and we shall not betray your confidence.

[1] Henrik de Kauffmann, Danish Minister to the United States.

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Text of Agreement Between the United States, British, and Yugoslav Governments On Venezia Giulia

[Released to the press June 9]

1. The portion of the territory of Venezia Giulia west of a line which includes Trieste, the railways and roads from there to Austria via Gorizia, Caporetto, and Tarvisio, Pola and the anchorages on the west coast of Istria will be under the command and control of the Supreme Allied Commander.

2. All naval military and air forces west of the line will be placed under his command from the moment at which this agreement comes into force. Yugoslav forces in the area must be limited to a detachment of regular troops not exceeding 2,000 of all ranks. These troops will be maintained by the Supreme Allied Commander's administrative services. They will occupy a district selected by the Supreme Allied Commander west of the dividing line and will not be allowed access to the rest of the area.

3. Using an Allied Military Government, the Supreme Allied Commander will govern the areas west of the line, Pola and such other areas on the west coast of Istria as he may deem necessary. A small Yugoslav mission may be attached to the Headquarters of the Eighth Army as observers. Use will be made of any Yugoslav civil administration which is already set up and which in the view of the Supreme Allied Commander is working satisfactorily. The Allied Military Government will, however, be empowered to use whatever civil authorities they deem best in any particular place and to change administrative personnel at their discretion.

4. Marshal Tito will withdraw the Yugoslav regular forces now in the portion of Venezia Giulia west of the line by (date to be inserted) 1945. Arrangements for the retention of the Yugoslav detachment referred to in paragraph (2) will be worked out between the Supreme Allied Commander and the Yugoslav High Command.

5. Any irregular forces in this area will, according to the decision of the Supreme Allied Commander in each case, either hand in their arms to the Allied Military Authorities and disband, or withdraw from the area.

6. The Yugoslav Government will return residents of the area whom they have arrested or deported with the exception of persons who possessed Yugoslav nationality in 1939, and make restitution of property they have confiscated or removed.

7. This agreement in no way prejudices or affects the ultimate disposal of the parts of Venezia Giulia west of the line. Similarly the military occupation and administration by Yugoslavia of the parts of Venezia Giulia east of the line in no way prejudices or affects the ultimate disposal of that area.

[Released to the press June 9]

The Department of State announced on June 9 that an agreement had been reached between the United States, British, and Yugoslav Governments on the temporary military administration of Venezia Giulia. The military details will be worked out by Marshal Tito and Field Marshal Sir Harold Alexander.

Arrangements for Control of Germany by Allied Representatives

[Released to the press June 5]

DECLARATION

regarding the defeat of Germany and the assumption of supreme authority with respect to Germany by the Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom and the Provisional Government of the French Republic.

The German armed forces on land, at sea and in the air have been completely defeated and have surrendered unconditionally and Germany, which bears responsibility for the war, is no longer capable of resisting the will of the victorious Powers.[1] The unconditional surrender of Germany has thereby been effected, and Germany has become subject to such requirements as may now or hereafter be imposed upon her.

There is no central Government or authority in Germany capable of accepting responsibility for the maintenance of order, the administration of the country and compliance with the requirements of the victorious Powers.

It is in these circumstances necessary, without prejudice to any subsequent decisions that may be taken respecting Germany, to make provision for the cessation of any further hostilities on the part of the German armed forces, for the maintenance of order in Germany and for the administration of the country, and to announce the immediate requirements with which Germany must comply.

The Representatives of the Supreme Commands of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom and the French Republic, hereinafter called the "Allied Representatives," acting by authority of their respective Governments and in the interests of the United Nations, accordingly make the following Declaration:—

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, hereby assume supreme authority with respect to Germany, including all the powers possessed by the German Government, the High Command and any state, municipal, or local government or authority. The assumption, for the purposes stated above, of the said authority and powers does not effect the annexation of Germany.

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, will hereafter determine the boundaries of Germany or any part thereof and the status of Germany or of any area at present being part of German territory.

In virtue of the supreme authority and powers thus assumed by the four Governments, the Allied Representatives announce the following requirements arising from the complete defeat and unconditional surrender of Germany with which Germany must comply:—

ARTICLE I

Germany, and all German military, naval and air authorities and all forces under German control shall immediately cease hostilities in all theatres of war against the forces of the United Nations on land, at sea and in the air.

ARTICLE 2.

(a) All armed forces of Germany or under German control, wherever they may be situated, including land, air, anti-aircraft and naval forces, the S.S., S.A. and Gestapo, and all other forces of auxiliary organisations equipped with weapons, shall be completely disarmed, handing over their weapons and equipment to local Allied Commanders or to officers designated by the Allied Representatives.

(b) The personnel of the formations and units of all the forces referred to in paragraph (a) above

[1] BULLETIN of May 13, 1945, p. 885.

shall, at the discretion of the Commander-in-Chief of the Armed Forces of the Allied State concerned, be declared to be prisoners of war, pending further decisions, and shall be subject to such conditions and directions as may be prescribed by the respective Allied Representatives.

(c) All forces referred to in paragraph (a) above, wherever they may be, will remain in their present positions pending instructions from the Allied Representatives.

Statement on Zones of Occupation in Germany[1]

[Released to the press June 5]

1. Germany, within her frontiers as they were on 31st December, 1937, will, for the purposes of occupation, be divided into four zones, one to be allotted to each Power as follows:—

an eastern zone to the Union of Soviet Socialist Republics;
a north-western zone to the United Kingdom;
a south-western zone to the United States of America;
a western zone to France.

The occupying forces in each zone will be under a Commander-in-Chief designated by the responsible Power. Each of the four Powers may, at its discretion, include among the forces assigned to occupation duties under the command of its Commander-in-Chief, auxiliary contingents from the forces of any other Allied Power which has actively participated in military operations against Germany.

2. The area of "Greater Berlin" will be occupied by forces of each of the four Powers. An Inter-Allied Governing Authority (in Russian, Komendatura) consisting of four Commandants, appointed by their respective Commanders-in-Chief, will be established to direct jointly its administration.

[1] Made on June 5, 1945 by the Governments of the United States, the Union of Soviet Socialist Republics, the United Kingdom, and the Provisional Government of the French Republic.

(d) Evacuation by the said forces of all territories outside the frontiers of Germany as they existed on the 31st December, 1937, will proceed according to instructions to be given by the Allied Representatives.

(e) Detachments of civil police to be armed with small arms only, for the maintenance of order and for guard duties, will be designated by the Allied Representatives.

ARTICLE 3.

(a) All aircraft of any kind or nationality in Germany or German-occupied or controlled territories or waters, military, naval or civil, other than aircraft in the service of the Allies, will remain on the ground, on the water or aboard ships pending further instructions.

(b) All German or German-controlled aircraft in or over territories or waters not occupied or controlled by Germany will proceed to Germany or to such other place or places as may be specified by the Allied Representatives.

ARTICLE 4.

(a) All German or German-controlled naval vessels, surface and submarine, auxiliary naval craft, and merchant and other shipping, wherever such vessels may be at the time of this Declaration, and all other merchant ships of whatever nationality in German ports, will remain in or proceed immediately to ports and bases as specified by the Allied Representatives. The crews of such vessels will remain on board pending further instructions.

(b) All ships and vessels of the United Nations, whether or not title has been transferred as the result of prize court or other proceedings, which are at the disposal of Germany or under German control at the time of this Declaration, will proceed at the dates and to the ports or bases specified by the Allied Representatives.

ARTICLE 5.

(a) All or any of the following articles in the possession of the German armed forces or under German control or at German disposal will be held intact and in good condition at the disposal of the Allied Representatives, for such purposes and at such times and places as they may prescribe:—

(i) all arms, ammunition, explosives, military equipment, stores and supplies and other

implements of war of all kinds and all other war materials;

(ii) all naval vessels of all classes, both surface and submarine, auxiliary naval craft and all merchant shipping, whether afloat, under repair or construction, built or building;

(iii) all aircraft of all kinds, aviation and anti-aircraft equipment and devices;

(iv) all transportation and communications facilities and equipment, by land, water or air;

(v) all military installations and establishments, including airfields, seaplane bases, ports and naval bases, storage depots, permanent and temporary land and coast fortifications, fortresses and other fortified areas, together with plans and drawings of all such fortifications, installations and establishments;

(vi) all factories, plants, shops, research institutions, laboratories, testing stations, technical data, patents, plans, drawings and inventions, designed or intended to produce or to facilitate the production or use of the articles, materials, and facilities referred to in sub-paragraphs (i), (ii), (iii), (iv) and (v) above or otherwise to further the conduct of war.

(b) At the demand of the Allied Representatives the following will be furnished:—

(i) the labour, services and plant required for the maintenance or operation of any of the six categories mentioned in paragraph (a) above; and

(ii) any information or records that may be required by the Allied Representatives in connection with the same.

(c) At the demand of the Allied Representatives all facilities will be provided for the movement of Allied troops and agencies, their equipment and supplies, on the railways, roads and other land communications or by sea, river or air. All means of transportation will be maintained in good order and repair, and the labour, services and plant necessary therefor will be furnished.

ARTICLE 6.

(a) The German authorities will release to the Allied Representatives, in accordance with the procedure to be laid down by them, all prisoners of war at present in their power, belonging to the forces of the United Nations, and will furnish full lists of these persons, indicating the places of their detention in Germany or territory occupied by Germany. Pending the release of such prisoners of war, the German authorities and people will protect them in their persons and property and provide them with adequate food, clothing, shelter, medical attention and money in accordance with their rank or official position.

(b) The German authorities and people will in like manner provide for and release all other nationals of the United Nations who are confined, interned or otherwise under restraint, and all other persons who may be confined, interned or otherwise under restraint for political reasons or as a result of any Nazi action, law or regulation which discriminates on the ground of race, colour, creed or political belief.

(c) The German authorities will, at the demand of the Allied Representatives, hand over control of places of detention to such officers as may be designated for the purpose by the Allied Representatives.

Statement on Consultation With Governments of Other Nations[1]

[Released to the press June 5]

By the declaration made at Berlin on 5th June the Governments of the United States, United Kingdom and Union of Soviet Socialist Republics and the Provisional Government of the French Republic have assumed supreme authority with respect to Germany. The Governments of the four Powers hereby announce that it is their intention to consult with the Governments of other United Nations in connection with the exercise of this authority.

[1] Made on June 5, 1945 by the Governments of the United States, the Union of Soviet Socialist Republics, the United Kingdom, and the Provisional Government of the French Republic.

Statement on Control of Machinery in Germany[1]

[Released to the press June 5]

1. In the period when Germany is carrying out the basic requirements of unconditional surrender, supreme authority in Germany will be exercised, on instructions from their Governments, by the Soviet, British, United States, and French Commanders-in-Chief, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole. The four Commanders-in-Chief will together constitute the Control Council. Each Commander-in-Chief will be assisted by a political adviser.

2. The Control Council, whose decisions shall be unanimous, will ensure appropriate uniformity of action by the Commanders-in-Chief in their respective zones of occupation and will reach agreed decisions on the chief questions affecting Germany as a whole.

3. Under the Control Council, there will be a permanent Co-ordinating Committee composed of one representative of each of the four Commanders-in-Chief and a Control Staff organised in the following Divisions (which are subject to adjustment in the light of experience):

Military; Naval; Air; Transport; Political; Economic; Finance; Reparation, Deliveries and Restitution; Internal Affairs and Communications; Legal; Prisoners of War and Displaced Persons; Man-power.

There will be four heads of each Division, one designated by each Power. The staffs of the Divisions may include civilian as well as military personnel, and may also in special cases include nationals of other United Nations appointed in a personal capacity.

4. The functions of the Co-ordinating Committee and of the Control Staff will be to advise the Control Council, to carry out the Council's decisions and to transmit them to appropriate German organs, and to supervise and control the day-to-day activities of the latter.

5. Liaison with the other United Nations Governments chiefly interested will be established through the appointment by such Governments of military missions (which may include civilian members) to the Control Council. These missions will have access through the appropriate channels to the organs of control.

6. United Nations organisations will, if admitted by the Control Council to operate in Germany, be subordinate to the Allied control machinery and answerable to it.

7. The administration of the "Greater Berlin" area will be directed by an Inter-Allied Governing Authority, which will operate under the general direction of the Control Council, and will consist of four Commandants, each of whom will serve in rotation as Chief Commandant. They will be assisted by a technical staff which will supervise and control the activities of the local German organs.

8. The arrangements outlined above will operate during the period of occupation following German surrender, when Germany is carrying out the basic requirements of unconditional surrender. Arrangements for the subsequent period will be the subject of a separate agreement.

Article 7.

The German authorities concerned will furnish to the Allied Representatives:—

(a) full information regarding the forces referred to in Article 2 (a), and, in particular, will furnish forthwith all information which the Allied Representatives may require concerning the numbers, locations and dispositions of such forces, whether located inside or outside Germany;

(b) complete and detailed information concerning mines, minefields and other obstacles to movement by land, sea or air, and the safety lanes in connection therewith. All such safety lanes will be kept open and clearly marked; all mines, minefields and other dangerous obstacles will as far as possible be rendered safe, and all aids to navigation will be reinstated. Unarmed German military and civilian personnel with the necessary equipment will be made available and utilised for the above purposes and for the removal of mines, minefields and other obstacles as directed by the Allied Representatives.

[1] Made on June 5, 1945 by the Governments of the United States, the Union of Soviet Socialist Republics, the United Kingdom, and the Provisional Government of the French Republic.

ARTICLE 8.

There shall be no destruction, removal, concealment, transfer or scuttling of, or damage to, any military, naval, air, shipping, port, industrial and other like property and facilities and all records and archives, wherever they may be situated, except as may be directed by the Allied Representatives.

ARTICLE 9.

Pending the institution of control by the Allied Representatives over all means of communication, all radio and telecommunication installations and other forms of wire or wireless communications, whether ashore or afloat, under German control, will cease transmission except as directed by the Allied Representatives.

ARTICLE 10.

The forces, ships, aircraft, military equipment, and other property in Germany or in German control or service or at German disposal, of any other country at war with any of the Allies, will be subject to the provisions of this Declaration and of any proclamations, orders, ordinances or instructions issued thereunder.

ARTICLE 11.

(a) The principal Nazi leaders as specified by the Allied Representatives, and all persons from time to time named or designated by rank, office or employment by the Allied Representatives as being suspected of having committed, ordered or abetted war crimes or analogous offences, will be apprehended and surrendered to the Allied Representatives.

(b) The same will apply in the case of any national of any of the United Nations who is alleged to have committed an offence against his national law, and who may at any time be named or designated by rank, office or employment by the Allied Representatives.

(c) The German authorities and people will comply with any instructions given by the Allied Representatives for the apprehension and surrender of such persons.

ARTICLE 12.

The Allied Representatives will station forces and civil agencies in any or all parts of Germany as they may determine.

ARTICLE 13.

(a) In the exercise of the supreme authority with respect to Germany assumed by the Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, the four Allied Governments will take such steps, including the complete disarmament and demilitarisation of Germany, as they deem requisite for future peace and security.

(b) The Allied Representatives will impose on Germany additional political, administrative, economic, financial, military and other requirements arising from the complete defeat of Germany. The Allied Representatives, or persons or agencies duly designated to act on their authority, will issue proclamations, orders, ordinances and instructions for the purpose of laying down such additional requirements, and of giving effect to the other provisions of this Declaration. All German authorities and the German people shall carry out unconditionally the requirements of the Allied Representatives, and shall fully comply with all such proclamations, orders, ordinances and instructions.

ARTICLE 14.

This Declaration enters into force and effect at the date and hour set forth below. In the event of failure on the part of the German authorities or people promptly and completely to fulfil their obligations hereby or hereafter imposed, the Allied Representatives will take whatever action may be deemed by them to be appropriate under the circumstances.

ARTICLE 15.

This Declaration is drawn up in the English, Russian, French and German languages. The English, Russian and French are the only authentic texts.

BERLIN, GERMANY
June 5, 1945 [1]

[1] Signed at 1800 hours, Berlin time, by Dwight D. Eisenhower, General of the Army, USA; Zhukov, Marshal of the Soviet Union; B. L. Montgomery, Field Marshal, Great Britain; De Lattre de Tassigny, Général d'Armée, French Provisional Government.

Provisional International Civil Aviation Organization

[Released to the press June 7]

Another step was taken toward international collaboration, this time in the important field of civil aviation, as the Department of State announced on June 7 the coming into force on June 6, 1945 of the Interim Agreement on International Civil Aviation. This agreement, which was concluded on December 7, 1944 at the Chicago International Civil Aviation Conference, became effective as the twenty-sixth nation announced to the United States Government its formal acceptance.

The interim agreement provides, among other things, for the establishment of the Provisional International Civil Aviation Organization (PICAO), which will consist of an assembly of all nations accepting the agreement, as well as a 21-member council elected by the assembly every 2 years. The PICAO will have advisory and technical functions but will not be empowered to regulate the economic phases of air transport. The Interim Council will formulate and recommend the adoption of technical standards and procedures and will study, report, and recommend on problems relating to air navigation and international air transport. The provisional organization will function for an interim period not to exceed 3 years from June 6, 1945. It is expected to be superseded within that time by the permanent International Civil Aviation Organization, which will be established after 26 countries have ratified or adhered to the Convention on International Civil Aviation, which was also concluded at the 1944 Chicago air conference.

Although, under the terms of the interim agreement, the acceptances of only 26 nations were required to bring the agreement into force, the State Department announced that 30 acceptances had been received as of June 6. Of these 30, the following 20 countries were elected at the Chicago conference as members of the first Interim Council.

Australia	France
Belgium	India
Brazil	Iraq
Canada	Mexico
Chile	Netherlands
China	Norway
Colombia	Peru
Czechoslovakia	Turkey
Egypt	United Kingdom
El Salvador	United States

In addition, the following 10 countries had accepted the interim agreement by June 6:

Afghanistan	Lebanon
Ethiopia	Liberia
Haiti	New Zealand
Iceland	Poland
Ireland	Portugal

The seat of the Provisional International Civil Aviation Organization will be at Montreal, Canada, and its first meeting is expected to be held in the near future.

Aviation Agreements

[Released to the press June 4]

The following action, not previously announced, has been taken on the Interim Agreement on International Civil Aviation, the International Air Services Transit Agreement (Two Freedoms), and the International Air Transport Agreement (Five Freedoms), which were concluded at the International Civil Aviation Conference in Chicago on December 7, 1944:

Portugal

João Antonio de Bianchi, Ambassador of Portugal, informed the Acting Secretary of State by a note dated May 29 that the Portuguese Government had published in the *Diario do Governo* on May 2 a decree-law approving, for purposes of ratification, the interim agreement, and that the communication of May 29 should be considered as

constituting full acceptance and ratification by Portugal of that agreement.

El Salvador

Felipe Vega-Gómez, Chargé d'Affaires ad interim of El Salvador, informed the Acting Secretary of State by a note dated May 31 that the Government of El Salvador accepts as a binding obligation the interim, transit, and transport agreements.

Great Britain and Northern Ireland

The British Ambassador informed the Acting Secretary of State by notes dated May 31 that the signatures affixed on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland to the interim and transit agreements shall constitute an acceptance of the agreements by Great Britain and an obligation binding upon it. The Ambassador states in each note that "In signifying their acceptance of the said Agreement, the Government of the United Kingdom desire to make it clear that they neither regard the Governments of Denmark and Siam as being parties thereto nor consider the United Kingdom as being in treaty relations with either of those countries in respect of the Agreement."

Union of South Africa

D. D. Forsyth, Secretary for External Affairs of the Union of South Africa, signed the Interim Agreement on International Civil Aviation, the Convention on International Civil Aviation, and the International Air Services Transit Agreement on June 4, 1945.

[Released to the press June 7]

Haiti

The Ambassador of Haiti informed the Secretary of State by a note dated June 2 that the Republic of Haiti ratified and approved the interim agreement on May 8.

Lebanon

The Lebanese Ministry of Foreign Affairs informed the American Legation at Beirut by a note dated June 4 that the signatures affixed on behalf of the Lebanese Government to the interim agreement constitute an acceptance of that agreement by the Lebanese Government and an obligation binding upon it.

Iraq

The Minister of Iraq informed the Acting Secretary of State by a note dated June 4 that the Council of Ministers agreed in its meeting of May 29 to the accession of Iraq to the interim agreement.

Iceland

The American Minister at Reykjavik informed the Acting Secretary of State on June 4 that the Icelandic Government considers the interim agreement in force and a binding obligation on the Icelandic Government.

Chile

The Ambassador of Chile informed the Secretary of State by a note dated June 4 that the signature affixed on behalf of the Republic of Chile to the interim agreement constitutes an acceptance of that agreement on the part of Chile and a valid and binding obligation upon it.

France

The French Embassy informed the Department of State by a note dated June 5 that the Provisional Government of the French Republic has accepted the interim agreement.

Colombia

The Chargé d'Affaires ad interim of Colombia informed the Acting Secretary of State by a note dated June 6 that the Government of Colombia accepts the interim agreement and will put it into force provisionally until it is approved by the National Congress in accordance with the constitutional procedure of Colombia.

China

The Chinese Ambassador informed the Secretary of State by a note dated June 6 that the

Edward Warner Appointed United States Aviation Delegate

[Released to the press June 6]

The State Department announced on June 6 that Edward Warner, Vice Chairman of the Civil Aeronautics Board, has been selected as the United States Delegate on the Council of the Provisional International Civil Aviation Organization, which is expected to assemble shortly in Montreal.

Mr. Warner will be temporarily on leave from the Civil Aeronautics Board for this assignment.

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signatures affixed by the Delegates of the Government of China to the interim and transport agreements constitute acceptance by the Chinese Government of the obligations binding upon it. The Ambassador added that "The acceptances are given with the understanding that the provisions of Article IV, Section 3, of the International Air Transport Agreement shall become operative in so far as the Government of China is concerned at such time as the Convention on International Civil Aviation Conference, signed at the International Civil Aviation Conference, shall be ratified by the Government of China."

Turkey

The Turkish Chargé d'Affaires ad interim informed the Acting Secretary of State by a note dated June 6 that the interim, transit, and transport agreements were ratified by the Turkish Grand National Assembly on June 5. The note states also "that the reservation made by the Turkish Delegation on the fifth freedom of the air contained in the International Air Transport Agreement is explained in the following article of the law by which the aforementioned instruments have been ratified:

" 'The Turkish Government, when concluding bilateral agreements, shall have the authority to accept and apply for temporary periods the provision regarding the fifth freedom of the air contained in the International Air Transport Agreement.' "

Review of Policy Regarding Korea

***Statement by* ACTING SECRETARY GREW**

[Released to the press June 8]

In view of increased public interest in Korean affairs, I believe this is a proper occasion to review certain aspects of this Government's policy with respect to Korea and the Koreans.[1]

There have been persistent rumors that an agreement concerning Korea was made at Yalta committing this Government to a policy contrary to the Cairo Declaration. These reports have already been denied by officers of the Department in reply to inquiries received. Various Korean leaders in China as well as in the United States have recognized that these rumors are baseless. The Cairo Declaration of December 1, 1943 included the statement that the three signatory powers, China, the United States, and Great Britain, "mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent". There has been no change in this Government's intention to fulfil its commitments under the Cairo Declaration.

In as much as there has been considerable agitation on the part of various Koreans and their friends for recognition of the "Korean Provisional Government" of Chungking and for the seating of a Korean delegation at the San Francisco Conference, it seems pertinent to review certain basic considerations which have guided the Department of State in this connection.

The United Nations which are represented at the United Nations Conference on International Organization all have legally constituted governing authorities, whereas the "Korean Provisional Government" and other Korean organizations do not possess at the present time the qualifications requisite for obtaining recognition by the United States as a governing authority. The "Korean Provisional Government" has never exercised administrative authority over any part of Korea, nor can it be regarded as representative of the Korean people of today. Due to geographical and other factors its following even among exiled Koreans is inevitably limited. It is the policy of this Government in dealing with groups such as the "Korean Provisional Government" to avoid taking action which might, when the victory of the United Nations is achieved, tend to compromise the right of the Korean people to choose the ultimate form and personnel of the government which they may wish to establish. It is principally for these reasons that the American Government has not recognized the "Korean Provisional Government". This

[1] For article on Korea, see BULLETIN of Nov. 12, 1944, p. 578.

policy is consistent with this Government's attitude toward all people who are under or who have been liberated from Axis domination.

The foregoing review of the Department's position with respect to the "Korean Provisional Government" carries, of course, no implication whatsoever of any lack of sympathy for the people of Korea and for their aspirations for freedom. The officers of the Department have spent a great deal of time in studying the problems relating to Korea and have talked at length with various individuals interested in the welfare of Korea and the Koreans and have endeavored to explain this Government's responsibility in such matters and to give a clear indication of the lines along which this responsibility is being fulfilled.

It is a matter of record that many Koreans are serving unselfishly and devotedly in the forces of the United Nations. As the war against Japan progresses, the Korean people may be placed in a position to play an increasingly important role in the defeat of Japan and in the liberation of their homeland. In view of the long and close friendship between the American and Korean peoples, it is with considerable satisfaction that this Government looks forward to the time when Korea can take its place among the free and independent nations of the world.

Scholarship Opportunities Open To Students From Korea

[Released to the press June 9]

Realizing that a free and independent Korea of the future will need the services of well-trained men in various fields, the Department has recently decided to make available to students from Korea who are in this country the same types of scholarship opportunities as are now open to Chinese enrolled in American institutions. Application forms are now being sent to certain well-qualified persons, and it is expected that, during the course of the next academic year, a number of these students who otherwise might have had to abandon their education because of lack of funds will be able to continue their training in preparation for national service in their country.

Visit of Cuban Physicist

[Released to the press June 8]

One of Cuba's leading educators and scientists, Manuel Gran, head of the department of physics at the University of Habana, will visit physics laboratories, observatories, and research centers at Philadelphia, Ithaca, New York, Boston, Cambridge, Ann Arbor, Princeton, Chicago, Los Angeles, San Francisco, and New Orleans during the next three months. Dr. Gran is currently in Washington, and during the past week he has observed methods at the National Institute of Health and the Bureau of Standards, with side-trips to Johns Hopkins, Duke, and Catholic Universities.

Dr. Gran is a member of numerous learned societies of the Americas and of Europe and a frequent contributor to scientific journals. His major published work to date is *Elementos de Física* (*Elements of Physics*), which appeared in 1941 in two massive volumes.

Visit of Peruvian Social-Service Director

[Released to the press June 8]

Señorita María Rosario Araoz, director of the Peruvian National School of Social Service at Lima, is studying methods and programs of social-service schools in this country as guest of the Department of State.

Señorita Araoz arrived in Washington on May 30. The Children's Bureau of the Department of Labor has cooperated with the Department of State in planning an itinerary for Señorita Araoz that will take her to public and denominational schools and community centers, as well as social-service courses, in and near Washington, New York, Boston, and Chicago. She will also visit rural areas and the far west during her three months' tour.

Señorita Araoz was head of the Girls' High School at Tacna and later of the corresponding school at Lima before accepting her present post in the National School of Social Service of Peru. One of the ablest of Peruvian educators, she is much in demand as a public speaker on problems of social welfare.

Declaration of War by Brazil Against Japan

TEXT OF DECREE

The President of Republic, using the attributes conferred on him by Article 74–M of the Constitution;

Considering the inter-American commitments of mutual aid and defense are in full force and were reiterated and amplified at the recent conference of American nations gathered at Mexico City;

Considering that, with the aggressor nations on the European continent defeated, the total power of our Allies, the United States of America, is now transferred to the theater of operations in the Pacific Ocean;

Considering that the objectives of peace of the United Nations demand the participation of all states of this continent in the final struggle for the liberty of oppressed peoples;

Considering that our belligerent participation in Europe has ended with the unconditional surrender of our enemies;

Considering that since January 28, 1942, diplomatic relations with the Empire of Japan were broken in consequence of the aggression against the United States of America;

DECREES:

Article I. The existence of a state of war between Brazil and Japan is declared.

Article II. The present decree will enter into effect on the date of its publication.[1]

Article III. Dispositions to the contrary are revoked.

TELEGRAM FROM PRESIDENT TRUMAN TO PRESIDENT VARGAS

[Released to the press June 7]

The American people greet with enthusiasm the declaration by Your Excellency's Government of a state of war against the Japanese Empire. This act of our sister republic is significant, not only in that it throws the material and moral force of a great nation into the common struggle against a treacherous and cruel enemy, but because it also constitutes an additional bond in the historic friendship between Brazil and the United States, a tradition which finds its roots in the beginnings of our respective histories as independent nations. In the name of this Government and of the American people I express deep satisfaction in the thought that the Brazilian Government and people will be solidly at our side until the total defeat of the one remaining Axis aggressor.

HARRY S. TRUMAN

EXCHANGE OF MESSAGES BETWEEN THE ACTING FOREIGN MINISTER OF BRAZIL AND ACTING SECRETARY GREW[2]

I have the honor to communicate to Your Excellency that the Brazilian Government, having for some time considered the aggression of Japan against the United States of America as though it were directed against Brazil itself and desiring to cooperate for the final victory of the United Nations and their Allies, resolved by a decree dated today to declare the existence of a state of war with the above-mentioned aggressor power. I take this opportunity to renew to Your Excellency Brazil's confidence in the triumph over the common enemy. Cordial salutations.

JOSÉ ROBERTO DE MACEDO SOARES

[1] June 6, 1945.

[2] This telegram, dated June 6, 1945, is translated from the Portuguese.

I am very grateful for the message contained in Your Excellency's telegram of June 6, and I assure you of my great satisfaction on learning of the declaration of war by the Brazilian Government against Japan. This was most welcome news to this Government for many reasons, not the least of which is the assurance of continued close collaboration between our Governments. I send to Your Excellency my most sincere appreciation for informing me of this further evidence of the Brazilian Government's determination to see the war against the Axis Powers through to final victory.

JOSEPH C. GREW
Acting Secretary of State

STATEMENT BY ACTING SECRETARY GREW

On June 6 Acting Secretary Grew made the following statement, in lieu of press conference, regarding the declaration of war by Brazil against Japan:

"It is with the greatest satisfaction that the Government of the United States has received the Brazilian Government's announcement that it has declared a state of war against the Japanese Empire. This action constitutes still another manifestation of the solidarity of the great Brazilian Nation with the United States and its Allies in their determination to crush the last stronghold of militant Fascism."

Lend-Lease Matters: Defense-Aid Appropriation Estimate

LETTER FROM THE PRESIDENT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES [1]

[Released to the press by the White House June 4]

I have the honor to transmit for the consideration of the Congress an estimate of appropriation for defense aid for the fiscal year 1946, exclusive of aid authorized to be transferred by the War and Navy Departments and the Maritime Commission, as follows:

Defense Aid $1,975,000,000

This recommended appropriation, together with unobligated balances of about $2,400,000,000 from the current year, will provide a total program of $4,375,000,000. Since Germany has been defeated, the proposed new program of defense aid and the appropriation required are less than for the current year. This program, however, reflects our resolution to give fully effective aid in order to shorten the war and thereby reduce the cost in allied lives and materials.

The war against Japan, like the war against Germany, is a cooperative allied effort. Through lend-lease and reverse lend-lease we shall continue to pool our resources with those of our allies so that the crushing weight of our combined might may be thrown against our remaining enemy. Where lend-lease funds will make the efforts of our allies more effective, we shall use them. Where the redeployment of our troops from Europe or our control over enemy areas require aid from other nations, lend-lease will be available to enable their maximum participation. Similarly, through reverse lend-lease we can expect our allies to give us all the assistance possible.

In the light of changed war conditions, a preliminary review of lend-lease assistance to individual nations has been made. Further review will be necessary from time to time in the coming year as the war progresses and the needs and the wartime roles of our allies vary. For this reason any programs proposed must be considered as most tentative.

Our recent lend-lease agreements with France,[2] Belgium [3] and the Netherlands [4] will be carried out by lend-lease funds to the fullest extent consistent with changed war conditions and the basic wartime purposes of lend-lease aid. Beyond this I propose that these allies be assisted in financing necessary equipment and supplies by the Export-Import Bank.

Such assistance is consistent with the enlarged role which the Bank should be given in providing

[1] Sent on June 4.

[2] BULLETIN of Mar. 4, 1945, p. 362, and Mar. 25, 1945, p. 500.

[3] BULLETIN of Apr. 22, 1945, p. 763.

[4] BULLETIN of May 6, 1945, p. 876.

certain types of industrial equipment and supplies which other nations may wish to obtain from us for reconstruction. Some aspects of reconstruction are of particular interest to this nation and can most appropriately be financed by our own instrumentality.

Accordingly there will be transmitted to the Congress at an early date, a proposal providing for adequate legal authorization and expanded lending capacity for the Bank.

The lend-lease and Export-Import Bank programs represent unilateral efforts of this country. They are not intended to duplicate the work of international agencies.

The United Nations Relief and Rehabilitation Administration, for example, has been created to meet the more immediate needs of relief and rehabilitation where nations are unable to meet their needs from their own resources. Legislation is now before the Congress to allow participation by the United States in the International Bank for Reconstruction and Development and the International Monetary Fund. This legislation merits early consideration and approval.

In contrast to these devices, however, lend-lease is a positive weapon of waging war. The appropriation estimate herein submitted provides for its full use to bring the conflict with Japan to a quick and decisive end.

The details of the defense aid estimate are set forth in the letter of the Director of the Bureau of the Budget, transmitted herewith, in whose observations and recommendations I concur.

Respectfully yours,

HARRY S. TRUMAN

LETTER FROM THE DIRECTOR OF THE BUREAU OF THE BUDGET TO THE PRESIDENT

June 1, 1945

THE PRESIDENT
The White House

SIR:

I have the honor to submit for your consideration an estimate of appropriation for the fiscal year 1946 for defense aid, exclusive of aid authorized to be transferred by the War and Navy Departments and the Maritime Commission, in order further to carry out the provisions of the act entitled "An Act to promote the defense of the United States", approved March 11, 1941, as amended, as follows:

Defense Aid . . . $1,975,000,000

The requested appropriation is $1,563,869,000 less than that for the current year. The total new program anticipated for the fiscal year 1946 is $4,375,000,000 as compared to estimated obligations of $5,128,000,000 in the current year. It has been possible to reduce the requested appropriation by $2,400,000,000 by the inclusion of a provision authorizing the use in fiscal year 1946 of unobligated balances as of the end of the current fiscal year.

The proposed defense aid budget for the fiscal year 1946 reflects the following recommendations:

1. Lend-lease should continue to be an indispensable weapon for waging fully effective war against Japan in close collaboration with our Allies. In furtherance of this objective such funds should be of limited but valuable assistance in expediting the maximum redeployment of our armed forces for full use against Japan.

2. Lend-lease funds should be limited to purposes of the war and national defense and should be reduced as fast as possible consistent with those objectives.

3. Raw materials should be provided under lend-lease arrangements only where they are needed to increase or maintain the industrial contribution of the lend-lease country to the war effort.

4. Petroleum products for U.S. military use should henceforth be financed from War and Navy appropriations.

The appropriation recommended also assumes that Congress will expand the lending authority of the Export-Import Bank and remove the prohibition of lending to governments which have been in default in the past. Such action will make possible the financing of portions of the lend-lease 3 (c) agreements with the French, Belgian and Netherlands governments for the delivery of industrial equipment and supplies, provision for which has not been made in the program recommended above because of changed war conditions.

The requirements for the supplies to be fur-

nished under the defense aid program for fiscal year 1946 were prepared by the Foreign Economic Administration after consultation with representatives of the governments of the countries eligible for such aid. They were discussed as to feasibility by the FEA with the War Production Board, the Department of Agriculture, the War Shipping Administration, the Treasury Department, the Petroleum Administration for War, and other interested departments and agencies.

There are attached the details of the estimate of appropriation with supporting schedules and summary tables showing the defense aid requirements for the fiscal year ending June 30, 1946.[1]

I recommend approval of the above estimate of appropriation.

Very respectfully yours,

HAROLD D. SMITH
Director of the
Bureau of the Budget

Post-War Military Policy

***Statement by* ACTING SECRETARY GREW[2]**

[Released to the press June 4]

GENTLEMEN: I come before you as an advocate of military training for the young men of America. I believe profoundly that our young men should have this training. I do not believe that there is anyone in our country, in the armed forces or in civilian life, who feels this more strongly than I do, and my attitude is based on the experience gained in 40 years of foreign service, especially the 10 years I spent in Germany before and during the last war and the 10 years I spent in Japan before the war we are fighting now. I believe it is an essential part of our share in the United Nations proposals for world security. And I am glad to know that young men who now make up the Army and the Navy of the United States themselves favor military training to defend and maintain, in the perilous years that lie ahead, the liberty they have preserved.

We have never lost a war, and pray God we never shall. But I believe there are wars we should not have had to fight if we had been properly prepared in time, if we had shown the aggressors what might we were equipped to wield.

A great charter of security for mankind is being created by the United Nations at San Francisco. The plans for a world organization for peace call for a series of steps to be taken by the Security Council before force is used to deal with those who would plunge the world into war. But we must be prepared to contribute our complement of armed force to the United Nations pool if we should be called upon to do so when all other steps have failed to preserve the peace.

The precise numbers and components of the forces and facilities would be determined by agreements among the member states under the auspices of the Security Council. But it is obvious that such agreements cannot be made until after the international Organization is under way. It is impossible today to foresee the whole future and say exactly what our responsibilities may be in providing our share of force to keep the peace. That will depend on the size of the threat to peace. Yet it is decidedly clear that if we are to have that force ready when it is needed it will have to be provided by whatever peacetime military and naval plan we decide beforehand to carry out. Modern armies and navies do not spring into being overnight.

We should accept, therefore, the judgment of our highest military authority. And that authority holds that unless a system of universal military training is put into effect we shall not have available the reserve of trained men required to make our air and sea and land forces adequate to meet any possible future threats to our freedom.

Above all, if our young men are ever again to be called on to defend our freedom, it will be better for them and better for us if they are well trained. We have an obligation to them and to the Nation to give them the best possible training, that they, and the Nation, may survive. Their chances of

[1] Not printed.

[2] Made on June 4, 1945 before the Select Committee on Postwar Military Policy on the proposed plan for a year of compulsory military training.

survival will be infinitely greater if they are trained.

The foreign policy of the United States, in Mr. Hull's classic definition, is "the task of focusing and giving effect in the world outside our borders to the will of 135 million people through the constitutional processes which govern our democracy".

Behind our day-to-day diplomacy in fulfilling that policy lies a factor of prime importance: national determination demonstrated and backed by national preparedness. Without adequate preparedness, our diplomacy becomes weak and ineffectual. If our diplomacy abroad is to achieve favorable results, our country should be constantly prepared to meet all eventualities. As General MacArthur said when he was Chief of Staff:

"Armies and navies in being efficient give weight to the peaceful words of statesmen, but a feverish effort to create them when once a crisis is imminent simply provokes attack."

Looking back to the old days, before 1914, in Berlin, I remember seeing German officers banging their glasses on the table and singing *Der Tag*. They were boastful and arrogant, contemptuous of the weak. "We are bound to attack France some day", they said. "When we attack France, we may have to go through Belgium, of course. But the Belgians won't fight; they are weak and spiritless. As for the British, they are all shot up with their Irish and labor troubles; we can count England out of the picture." That represented the thinking of those Prussian military officers before 1914. We have had to deal with that same spirit again, at fearful cost. We must see that it never again has a chance to rise.

I was convinced, in those days before 1914, that if England had been even reasonably prepared, and if, when Germany was about to attack France, Sir Edward Grey had been able to say to Von Bethmann-Hollweg: "If you attack France, Great Britain will come into the war within an hour", there would have been no attack.

In 1932, I went to Japan. Not long after taking up my duties there as Ambassador, I wrote to the Secretary of State, saying the Japanese military machine "has been built for war, feels prepared for war and would welcome war. It has never yet been beaten and possesses unlimited self-confidence. I am not an alarmist, but I believe we should have our eyes open to all possible future contingencies." I was constantly urging preparedness, not in the interests of war but in the furtherance of peace, because might was the only language the Japanese could understand. Military weakness simply invited contempt.

I remember especially my talks with Mr. Matsuoka, the Japanese Minister for Foreign Affairs. He had been born and educated in Oregon. He prided himself on understanding American life, but he had no understanding whatever of the American spirit.

Matsuoka said to me: "You had better watch your step, because you in America could not fight a total war. Germany will undoubtedly win this war and will control all of Europe, and we in Japan are the stabilizing force in east Asia. Democracy is bankrupt and this is the day of the totalitarian powers. Your people have been brought up in the lap of luxury; they are dependent on their daily comforts, and with your labor troubles, your strikes, your pacifism and isolationism, you would be incapable of waging total war."

One reason why the Japanese people believed this picture of us was that about the only American speeches their authorities allowed in the papers were the speeches our ultra-isolationists made before Pearl Harbor. These speeches were often splashed across the press under big headlines.

I say all this to show how much military preparedness counts in the thinking of potential enemies.

If, during those years before Pearl Harbor, our people had been able to see the handwriting on the wall, if we had been even reasonably prepared at that time, I don't believe for a moment that Japan would have attacked us.

We must not, we dare not, let it happen again. That's why we cannot afford to wait.

I have said that I believe a year's military training is necessary because of our obligations under the world security Organization, because, in the world of things as they are, our international policy to be effective must have strength behind it, and because my experience has taught me that aggressors are not deterred by latent superior strength but shrewdly try to obtain their ends by attacking when they consider their potential opponents unprepared and therefore at a disadvantage.

There is one further aspect of the problem which I considered before giving my unreserved support to the demand for a year of military training for our young men in peace as well as in war, and that is the effect on our young men themselves. During my life I have been intensely interested in education, and I have been in close touch with educators, universities, and colleges, and I am a staunch believer in the value of academic training. I know there are some who believe that the requirement of a year's military training would take our young men away from colleges and schools, from academic life. I am convinced, on the contrary, that if this system were to go into effect it would be the greatest possible stimulus to our young men to go into educational life. They are going to realize the disadvantages of a lack of education. They will be in contact with educated men. It is my view that the plan would be in the best interests of our educational institutions throughout the country. It also would give our young men physical conditioning, discipline, an understanding of teamwork, fair play, and that sort of thing, which would be permanent assets to them throughout their lives. And when those who continued their academic work went back to it their approach would be more mature and their harvest would be richer. In sum, our young men would gain rather than lose by a year's training to fit them to be members of a civilian army.

These are some of the reasons why I earnestly recommend the adoption of the plan for a year of military training of our youth. Without qualification, I believe it to be in the best interests of our Nation and our people. We must be strong if we would be free.

Radiotelephone Circuit Between the United States and Ecuador

[Released to the press June 4]

A direct radiotelephone circuit was inaugurated on June 4 between the United States and Ecuador. With the establishment of this circuit the United States is now directly connected with all the other American republics by radiotelephone circuits.

On the occasion of the inauguration of the circuit Nelson A. Rockefeller, Assistant Secretary of State, spoke from San Francisco to Robert M. Scotten, American Ambassador to Ecuador.

Ecuador's Minister of Foreign Affairs, Camilo Ponce Enríquez, now in San Francisco, and the Ecuadoran Minister of Communications, Jorge Montero Vela, in Quito, also participated in the ceremony.

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Functions and Duties of Alien Property Custodian Regarding German and Japanese Property

[Released to the press by the White House June 9]

By virtue of the authority vested in me by the Constitution, by the First War Powers Act, 1941 (50 U. S. C. App., Supp., 601 *et seq.*), by the Trading with the Enemy Act of October 6, 1917, as amended (50 U. S. C. App., Supp., 1 *et seq.*), and as President of the United States, it is hereby ordered as follows:

Section 2(c) of Executive Order No. 9095 of March 11, 1942, as amended by Executive Order No. 9193 of July 6, 1942 (3 CFR Cum. Supp.), is amended to read as follows:

"(c) any other property or interest within the United States of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, a designated enemy country or national thereof: *Provided, however*, That with respect to any such country or national other than Germany or Japan or any national thereof, such property or interest shall not include cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange, and securities except to the extent that the Alien Property Custodian determines that such cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange, and securities are necessary for the maintenance or safeguarding of other property belonging to the same designated enemy country or the same national thereof and subject to vesting pursuant to section 2 hereof;"

HARRY S. TRUMAN

THE WHITE HOUSE,
June 8, 1945.

Safeguarding the State Through Passport Control

By GRAHAM H. STUART[1]

THE WAR HAS MADE MATERIAL CHANGES IN many peacetime activities of agencies of the Government, but few have incurred a more complete transformation in procedure and purpose than has the Passport Division of the State Department. To the man in the street the Passport Division was and still is a governmental agency which issues the very valuable green booklet that he must possess before he can visit any of the far corners of the earth. He knows that in order to obtain one he must prove that he is an American citizen, furnish a few photographs, and pay a fee of $10. The whole procedure to him appears routine, and at times it may seem an unnecessary restriction upon the freedom of travel.

That popular evaluation of the Passport Division's work is an unfair picture even in peacetime, but under present conditions such an appraisal is a complete misrepresentation of the work of the Division. In order for one to comprehend more fully the radical change in the Division's functions, a brief presentation of the principal activities and the organization of the Division previous to the outbreak of the war seems desirable.

The United States has issued passports ever since the Government was organized; the first passport recorded was dated July 8, 1796. The present wide-spread use of the passport is essentially a development following the first World War. By 1867 all Europe, except Russia and Turkey, had practically eliminated the passport. Since the end of the first World War, however, the majority of countries have required that foreigners entering their territories possess valid passports issued by the state of their nationality and properly visaed by the consular officers of the state into whose territory the bearer of the passport is entering. Since 1917 the United States has required that aliens coming to the United States bear passports visaed by American diplomatic or consular officers. Since the first World War the issuance of passports to American citizens traveling abroad has had a tremendous increase. In 1914, when American travel outside of the United States was extensive, the Department of State issued and renewed only 20,320 American passports. In 1930 the passports issued and renewals granted amounted to 203,174.[2]

Over the course of the years, the type of American passport has varied considerably. In the beginning it was a single sheet issued either by the Secretary of State in Washington or by a legation or consulate abroad, giving simply the name of the citizen to whom it was issued; later it became a double sheet which gave a description of the bearer; and the next format was a double sheet folded into a book form which gave at first the signature and later the photograph as well as a description of the citizen to whom it was issued. In all these types, visas could be affixed to the back of the passport. To prevent falsification the red-book-type passport with special paper and markings was adopted. This passport was first issued with a stiff cover and later with a flexible one. The present green-book type contains the fingerprints of the officer issuing it as well as a signed photograph and description of the bearer. This type, difficult to duplicate fraudulently, has proved eminently satisfactory.

The United States passport today is a document of exceedingly great value: its possessor is indicated as being a citizen of and entitled to the protection of the United States of America. Manifestly, since protection depends upon citizenship, the nationality factor is vital, and it must be decided in accordance with the laws of the land before protection may be accorded. But the laws of the United States governing naturalization and citizenship have been many and complex; therefore, the determination of American citizenship is sometimes difficult.

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[1] Dr. Stuart is Consultant and Head of the War History Section, Division of Research and Publication, Office of Public Affairs, Department of State. For an article on wartime visa-control procedures see BULLETIN of Sept. 10, 1944.

[2] These figures do not include the service passports and renewals granted abroad, which in 1930 amounted to 26,172.

Nationality and Citizenship Problems

IN DETERMINING the citizenship status and the extent of right to protection of persons claiming American citizenship or nationality one must consider the methods of acquiring and of losing American citizenship. According to the laws of the United States, a person may acquire citizenship by either the *jus sanguinis* or the *jus soli;* he may acquire citizenship through individual naturalization, derivative naturalization, or collective naturalization; he may acquire it by special act of Congress or by the operation of a treaty. A person may lose citizenship by swearing allegiance to a foreign state; by forswearing allegiance to the United States; by conviction of treason; by naturalization in a foreign state; by operation of treaties; or, in the case of naturalized citizens, through residence abroad or through constructive fraud in the obtention of naturalization. He may also lose citizenship by involuntary naturalization when coupled with an election of foreign nationality.

This determination of citizenship is of special significance, because as a consequence of this determination the Passport Division may exercise for the Secretary of State the discretionary authority vested in him to issue passports, to register individuals as American citizens or nationals in consulates of the United States, to certify their eligibility for repatriation, and to accord them the protection in foreign countries which American citizens enjoy.

One of the problems which constantly presents itself concerns naturalized American citizens living abroad. The laws of the United States require that such citizens whether residing in the country of their birth or elsewhere present satisfactory evidence that they are residing abroad in the American interest or that they are intending to return to the United States for permanent residence. Otherwise such citizens after residing abroad for certain defined periods are presumed to have expatriated themselves and are not eligible either to receive an American passport or to obtain the protection of the United States. The American consul may make the preliminary decision in these cases, but the Passport Division makes the final decision.

The citizenship of married women presents another serious problem for the Passport Division. Until the so-called "Cable act" of September 22, 1922 permitted an American woman to retain her citizenship even though married to an alien, the laws of the United States followed the same principles as those of most foreign nations by providing that a woman take the nationality of her husband. The Cable act in the past 20 years has already been amended a half-dozen times; the resulting situation is at times so complicated that even a Philadelphia lawyer would be at a loss to determine the legal status of the individual concerned. As a result of the complexities of the laws, the Passport Division found it necessary not only to decide the many cases arising both at home and abroad but also to issue instructions to American diplomatic and consular officers abroad concerning matters relating to nationality, passports, registration, and the protection of American nationals in foreign countries.

Since the executive officers of the principal American insular possessions and the High Commissioner of the Philippine Islands were authorized to issue passports, the administration of their passport work came under the jurisdiction of the Division. The Division also administered the five passport agencies in New York, San Francisco, Chicago, New Orleans, and Seattle. In addition, the clerks of more than 3,900 State and Federal courts are authorized to take applications for passports, and they must be advised and directed in passport matters.

Enforcing Neutrality Regulations

AT THE OUTBREAK of the second World War in the fall of 1939 the Passport Division was still concerned largely with the problems of nationality, expatriation, and protection, although it was also charged with administering certain provisions of the Neutrality Act of May 1, 1937 as amended by the acts of November 4, 1939 and of June 6, 1940. The travel of American citizens on ships of belligerent states and their travel on ships of any national character in areas defined by the various proclamations of the President as combat areas was prohibited.[3] The passport is an ideal device for the control of the movements of American citizens; therefore the Passport Division logically was given that responsibility.

In carrying out the provisions of the Neutrality Act, the Division assumed a number of new duties and functions. It was concerned with getting Army and Naval personnel, merchant seamen, and other defense experts to various areas of

[3] BULLETIN of Oct. 7, 1939, p. 345, and Nov. 4, 1939, p. 454.

the world by very diversified means of transportation. The Division facilitated the transfer of various vessels to foreign destination by taking appropriate action in order that American crews might proceed with belligerent ships over combat waters to effect delivery. Advice concerning clearance of vessels from various ports of the United States was given to appropriate customs officers. The documentation of American seamen had to be determined and administered in a manner to meet the requirements, expressed and implied, of the Neutrality Act. As a result of the extension of war zones, conditions were constantly changing; an elastic travel-control system therefore had to be devised to meet the varying situations.

The defense program of the United States required a considerable number of persons to proceed to those areas outside of the United States where defense bases were to be constructed. The Division was responsible for the clearance of applicants for passports in cooperation with the various intelligence officers of other Government agencies to determine whether the public safety would permit the granting of passport facilities to those persons. This clearance procedure was finally extended to cover all American citizens applying for a passport as well as the firms they were alleged to represent.

One of the most effective procedures instituted by the Division to increase the security of the United States was the replacement of all outstanding passports by a new-style document. By this means the Division was able at once to remove all fraudulent or altered passports from circulation and also to remove passports from the hands of persons engaged in activities not in the best interest of the United States. A replacement passport was granted only after a thorough examination of each case to determine the *bona fides* of the bearer. Any new or additional validation of a passport was given careful reconsideration to determine whether further extension of passport facilities would be justifiable.

As a further safeguard the Division throughout the emergency required that all passports of American citizens returning to the United States with the exception of the passports of certain aviation flight personnel, of diplomatic couriers, and of seamen should be taken up and forwarded to the State Department, where they were subjected to a careful examination for any indication of alteration or for any violation of the Neutrality Act. Such passports were retained in the Department until further passport facilities were granted to the bearers.

The passage of the Nationality Act of 1940 and the changes made in the existing law made it necessary that every case be submitted to a searching review. Many thousands of persons hitherto considered as American citizens and documented as such could lose their American nationality if they remained abroad. Under the requirements of the act it was necessary to set up a board of review to consider cases likely to be subject to judicial review and to hold hearings on those cases.

The Board of Review was composed of a Foreign Service officer and two senior attorneys. It first began to function in January 1942. In the first year and a half of its existence the Board passed upon approximately 2,800 cases.

As a result of the passage on June 21, 1941 of a law authorizing the President, at his discretion, to impose rules and regulations governing the entry into and the departure from the United States of all persons, aliens and citizens, the work of the Passport Division was greatly increased. Not only was the control of American citizens going to various areas of the world more rigorous, but also for the first time in history all American seamen departing from the United States for foreign ports were required to have passports.

This requirement that seamen carry passports imposed an onerous task upon the Division for a number of reasons. Many seamen were unable to present satisfactory proof of their citizenship; spending most of their life at sea they were wholly ignorant of passport requirements; the brief interval of time in port between voyages gave them little opportunity to obtain the necessary documentation. Yet, in view of the opportunities afforded seamen to act as agents and couriers for enemy nations, extreme care had to be exercised in investigating the background of all applicants for seamen's passports. As a double safeguard, all cases to which suspicion was attached were reviewed by a board consisting of military, naval, and law-enforcement officers who might determine whether it would be advisable in view of the information presented to extend passport facilities to the person concerned. The number of seamen's passports issued has far exceeded expectations; on May 1, 1945 over 300,000 seaman passports had been issued.

New Work as a Result of United States Belligerency

SUBSEQUENT to the entrance of the United States into the war the period of validity of all passports of those persons whose travel was approved by the State Department was limited to six months. The previous period of validity was normally two years. Exceptions have been made, however, in the passports of certain aviation flight personnel and of seamen, both of which groups were issued passports having a validity of two years. The passport was also restricted for use to specific countries through which the bearer would travel en route to his ultimate destination. This control made it possible to channelize the travel of persons proceeding abroad and to review their cases at regular intervals as they applied while abroad for further extension or amendment of their passports.

When the United States became a belligerent, large numbers of Army, Navy, and Marine Corps personnel and certain defense experts applied for and received passports enabling them to proceed by diversified means of travel to all areas of the world on special missions. The Passport Division used its good offices in making special arrangements with friendly foreign governments to facilitate the travel of these persons, thus permitting the expeditious accomplishment of their missions.

With the progress of the war the military authorities, with the concurrence of the Secretary of State, expressed by the Chief of the Passport Division, designated certain areas of the world as comprising the primary theaters of operations and limited strictly the classes of civilians in the United States who might be permitted to travel in those areas. The Division was charged with certifying to the Joint Chiefs of Staff the civilian American citizens whose travel to theaters of active operations would seem to be justified. In the cases where such travel was approved there was issued and forwarded to the Division a military permit, to be affixed to the traveler's passport to complete its validation for restricted areas. The Division also had the responsibility of taking up with the Joint Chiefs of Staff alterations in the scope of military areas as civilian needs made changes desirable.

In addition to restrictions on travel to the primary theater of operations, there was a large secondary area where the general advice of the military was sought in considering cases.

The Passport Division, through its careful scrutiny of individual travel objectives, was able on many occasions to obtain vital war information. By utilizing the information obtained through investigating all persons doing business abroad as well as the firms which they represented, the Division was able to uncover the surreptitious activities of certain enemy agents who represented themselves as being in the employ of commercial firms which appeared to be *bona fide* on the surface.

Upon the entry of the United States into the war, negotiations were initiated immediately with the various enemy nations through the Swiss Government for the protection of the extension of financial assistance to and the return to the United States of American citizens who found themselves in enemy territory. It was the duty of the Passport Division to pass upon their cases with reference not only to their American citizenship but also to their loyalty to the United States and to their performance of the duties of American citizenship.

In a time of war many persons who do not possess a passport wish some kind of documentation to prove their American citizenship. This is particularly true in the case of workers in defense plants or other organizations closely allied with the war effort where American citizenship is a prerequisite to employment. The Division has adopted a form of certificate for employment purposes based upon official records which is acceptable to military and naval authorities and to the responsible officials in establishments devoted to the war effort.

Similarly, the American consuls and immigration officials on the Mexican border found it would be a matter of great convenience to American citizens required to go back and forth frequently to issue to them cards of identity; the Division therefore established and supervised a procedure to meet that need. These cards, issued in large numbers at various places on the border upon the submission of *prima-facie* evidence of citizenship, were based upon applications forwarded to the Division, where they were recorded and cleared with the security agencies.

Passport Agencies and the War

AS A RESULT of the war the passport agencies in Chicago and Boston found their work considerably diminished. Since the clerk of the courts

in these cities could readily take care of the work, it was decided to close those offices temporarily as of July 1 and 15, 1942, respectively.

Because of the greatly increased use of aircraft as a means of transportation and of the impossibility of reaching certain Allied territory by surface vessels, Miami had grown to be an important port of entry to and departure from the United States by air for all areas of the world. To assist, as effectively as possible, in facilitating the travel of persons whose itineraries required them to depart from the United States by a southern route, a passport agency accordingly was established in Miami, Florida, and was opened to the general public on February 11, 1942.

The passport agency at Miami proved to be of inestimable value in giving emergency passport services to persons departing by air on urgent business to all parts of the world. The New York and San Francisco agencies were concerned largely with the granting of passports to seamen, defense workers, aircraft personnel, and others who have had a direct relation to the conduct of the war. Those three agencies executed 45,869 applications in 1942 and 79,249 in 1943; they issued and renewed 1,967 passports in 1942 and 7,001 in 1943.

This complete change in emphasis of the work of the Division from that of an agency to afford protection to the individual to that of one whose principal purpose was to safeguard and maintain the security of the state necessitated a considerable increase in personnel. Such a transformation, entailing as it did the clearance upon a basis of security for the state of the entry and departure of hundreds of thousands of persons into and from the United States, was not merely one of effective method but was also one of smooth and flexible execution. The case of seamen will illustrate the difficulties involved. It was recognized in the first World War that for security purposes seamen had not been adequately controlled, and that this factor was a serious weakness in the protection of the national interests. When President Franklin D. Roosevelt requested legislation to overcome this weakness and when the Passport Division was made responsible for preparing it, there was considerable skepticism as to the possibility of obtaining the desired result by passport control. However, Mrs. Ruth B. Shipley, Chief of the Passport Division, never for a moment doubted the efficiency of the procedure, provided she could be given a wide enough jurisdiction to permit exceptions to the regulations in emergency cases. The results have exceeded the fondest expectations. The vast majority of seamen have been duly examined and cleared; they possess their passports as proof. Because of the very flexible method of administration, no sailing has been delayed by the procedure. At the same time a large number of persons potentially dangerous to the state either have been kept at home or have been placed under careful supervision while traveling abroad.

At the outbreak of the war in 1939 there were in all 76 officers and clerks in the Passport Division; but in January 1945 there were 239 officers and clerks employed and 44 more positions had been authorized. Considering the highly technical character of the work and the need for absolute confidence in the Division's personnel because of its relations with the Army and Navy and because of the importance of its security operations, the stability of the personnel in the Division is exceptional; in fact the Passport Division ranks very close to the top in respect to the length of service of its personnel.

The Chief of the Passport Division, Mrs. Shipley, has served in this same capacity for the past 17 years. The Assistant Chief and Legal Adviser, Mr. John J. Scanlan, has served as an assistant chief for 23 years; another assistant chief, Miss F. Virginia Alexander, has served as such for 20 years; and five heads of sections have been with the Division for 20 or more years.

Although the Passport Division may not reach for some time its record of issuing more than 200,000 passports annually as it did in 1930, the Division in spite of wartime restrictions is issuing currently more than 130,000 passports annually. With the increased activities of the Foreign Economic Administration, the United Nations Relief and Rehabilitation Administration, and numerous other governmental agencies continuing their operations abroad, the Division must continue to safeguard the state through passport control. However, it is equally well prepared, when world conditions permit a relaxation of the restrictions upon essential travel of a private character, to assume once more its work in the protection and facilitation of the travel of *bona-fide* American citizens.

Atrocities and War Crimes

REPORT FROM ROBERT H. JACKSON TO THE PRESIDENT

[Released to the press by the White House June 7]

The President has received the following report from Justice Robert H. Jackson, Chief of Counsel for the United States in the prosecution of Axis War Criminals:

MY DEAR MR. PRESIDENT:

I have the honor to report accomplishments during the month since you named me as Chief of Counsel for the United States in prosecuting the principal Axis War Criminals.[1] In brief, I have selected staffs from the several services, departments and agencies concerned; worked out a plan for preparation, briefing, and trial of the cases; allocated the work among the several agencies; instructed those engaged in collecting or processing evidence; visited the European Theater to expedite the examination of captured documents, and the interrogation of witnesses and prisoners; coordinated our preparation of the main case with preparation by Judge Advocates of many cases not included in my responsibilities; and arranged cooperation and mutual assistance with the United Nations War Crimes Commission and with Counsel appointed to represent the United Kingdom in the joint prosecution.

I.

The responsibilities you have conferred on me extend only to "the case of major criminals whose offenses have no particular geographical localization and who will be punished by joint decision of the governments of the Allies," as provided in the Moscow Declaration of November 1, 1943, by President Roosevelt, Prime Minister Churchill and Premier Stalin. It does not include localized cases of any kind. Accordingly, in visiting the European Theater, I attempted to establish standards to segregate from our case against the principal offenders, cases against many other offenders and to expedite their trial. These cases fall into three principal classes:

1. The first class comprises offenses against military personnel of the United States—such, for example, as the killing of American airmen who crash-landed, and other Americans who became prisoners of war. In order to insure effective military operation, the field forces from time immemorial have dealt with such offenses on the spot. Authorization of this prompt procedure, however, had been withdrawn because of the fear of stimulating retaliation through execution of captured Americans on trumped-up charges. The surrender of Germany and liberation of our prisoners has ended that danger. The morale and safety of our own troops and effective government of the control area seemed to require prompt resumption of summary dealing with this type of case. Such proceedings are likely to disclose evidence helpful to the case against the major criminals and will not prejudice it in view of the measures I have suggested to preserve evidence and to prevent premature execution of those who are potential defendants or witnesses in the major case.

I flew to Paris and Frankfort and conferred with Generals Eisenhower, Smith, Clay, and Betts, among others, and arranged to have a representative on hand to clear questions of conflict in any particular case. We also arranged an exchange of evidence between my staff and the Theater Judge Advocate's staff. The officials of other countries were most anxious to help. For example, the French brought to General Donovan and me in Paris evidence that civilians in Germany had beaten to death with wrenches three American airmen. They had obtained from the German Burgomeister identification of the killers, had taken them into custody, and offered to deliver them to our forces. Cases such as this are not infrequent. Under the arrangements perfected, the military authorities are enabled to move in cases of this class without delay. Some are already under way; some by now have been tried and verdicts rendered. Some concentration camp cases are also soon to go on trial.

2. A second class of offenders, the prosecution of which will not interfere with the major case, consists of those who, under the Moscow Declara-

[1] BULLETIN of May 6, 1945, p. 866.

tion, are to be sent back to the scene of their crimes for trial by local authorities. These comprise localized offenses or atrocities against persons or property, usually of civilians of countries formerly occupied by Germany. The part of the United States in these cases consists of the identification of offenders and the surrender on demand of those who are within our control.

The United Nations War Crimes Commission is especially concerned with cases of this kind. It represents many of the United Nations, with the exception of Russia. It has been usefully engaged as a body with which the aggrieved of all the United Nations have recorded their accusations and evidence. Lord Wright, representing Australia, is the Chairman of this Commission, and Lieutenant Colonel Joseph V. Hodgson is the United States representative.

In London, I conferred with Lord Wright and Colonel Hodgson in an effort to coordinate our work with that of the Commission wherever there might be danger of conflict or duplication. There was no difficulty in arriving at an understanding for mutual exchange of information. We undertook to respond to requests for any evidence in our possession against those listed with the Commission as criminals and to cooperate with each of the United Nations in efforts to bring this class of offenders to justice.

Requests for the surrender of persons held by American forces may present diplomatic or political problems which are not my responsibility. But so far as my work is concerned, I advised the Commission, as well as the appropriate American authorities, that there is no objection to the surrender of any person except on grounds that we want him as a defendant or as a witness in the major case.

3. In a third class of cases, each country, of course, is free to prosecute treason charges in its own tribunals and under its own laws against its own traitorous nationals—Quislings, Lavals, "Lord Haw-Haws," and the like.

The consequence of these arrangements is that preparations for the prosecution of major war criminals will not impede or delay prosecution of other offenders. In these latter cases, however, the number of known offenses is likely to exceed greatly the number of prosecutions, because witnesses are rarely able satisfactorily to identify particular soldiers in uniform whose acts they have witnessed. This difficulty of adequately identifying individual perpetrators of atrocities and crimes makes it more important that we proceed against the top officials and organizations responsible for originating the criminal policies, for only by so doing can there be just retribution for many of the most brutal acts.

II.

Over a month ago the United States proposed to the United Kingdom, Soviet Russia and France a specific plan, in writing, that these four powers join in a protocol establishing an International Military Tribunal, defining the jurisdiction and powers of the tribunal, naming the categories of acts declared to be crimes, and describing those individuals and organizations to be placed on trial. Negotiation of such an agreement between the four powers is not yet completed.

In view of the immensity of our task, it did not seem wise to await consummation of international arrangements before proceeding with preparation of the American case. Accordingly, I went to Paris, to American Army Headquarters at Frankfort and Wiesbaden, and to London, for the purpose of assembling, organizing, and instructing personnel from the existing services and agencies and getting the different organizations coordinated and at work on the evidence. I uniformly met with eager cooperation.

The custody and treatment of war criminals and suspects appeared to require immediate attention. I asked the War Department to deny those prisoners who are suspected war criminals the privileges which would appertain to their rank if they were merely prisoners of war; to assemble them at convenient and secure locations for interrogation by our staff; to deny them access to the press; and to hold them in the close confinement ordinarily given suspected criminals. The War Department has been subjected to some criticism from the press for these measures, for which it is fair that I should acknowledge responsibility. The most elementary considerations for insuring a fair trial and for the success of our case suggest the imprudence of permitting these prisoners to be interviewed indiscriminately or to use the facilities of the press to convey information to each other and to criminals yet uncaptured. Our choice is between treating them as honorable prisoners of war with the privileges of their ranks, or to classify them as war criminals, in which case they should be treated as such. I have assurances from the War Department that those likely to be accused as

war criminals will be kept in close confinement and stern control.

Since a considerable part of our evidence has been assembled in London, I went there on May 28 with General Donovan to arrange for its examination, and to confer with the United Nations War Crimes Commission and with officials of the British Government responsible for the prosecution of war criminals. We had extended conferences with the newly appointed Attorney General, the Lord Chancellor, the Foreign Secretary, the Treasury Solicitor, and others. On May 29, Prime Minister Churchill announced in the House of Commons that Attorney General Sir David Maxwell Fyfe had been appointed to represent the United Kingdom in the prosecution. Following this announcement, members of my staff and I held extended conferences with the Attorney General and his staff. The sum of these conferences is that the British are taking steps parallel with our own to clear the military and localized cases for immediate trial, and to effect a complete interchange of evidence and a coordination of planning and preparation of the case by the British and American representatives. Despite the fact that the prosecution of the major war criminals involves problems of no mean dimensions, I am able to report that no substantial differences exist between the United Kingdom representatives and ourselves, and that minor differences have adjusted easily as one or the other of us advanced the better reasons for his view.

The Provisional Government of the French Republic has advised that it accepts in principle the American proposals for trials before an International Military Tribunal. It is expected to designate its representative shortly. The government of the Union of Soviet Socialist Republics, while not yet committed, has been kept informed of our steps and there is no reason to doubt that it will unite in the prosecution. We propose to make provision for others of the United Nations to become adherents to the agreement.

III.

The time, I think, has come when it is appropriate to outline the basic features of the plan of prosecution on which we are tentatively proceeding in preparing the case of the United States.

1. The American case is being prepared on the assumption that an inescapable responsibility rests upon this country to conduct an inquiry, preferably in association with others, but alone if necessary, into the culpability of those whom there is probable cause to accuse of atrocities and other crimes. We have many such men in our possession. What shall we do with them? We could, of course, set them at large without a hearing. But it has cost unmeasured thousands of American lives to beat and bind these men. To free them without a trial would mock the dead and make cynics of the living. On the other hand, we could execute or otherwise punish them without a hearing. But undiscriminating executions or punishments without definite findings of guilt, fairly arrived at, would violate pledges repeatedly given, and would not set easily on the American conscience or be remembered by our children with pride. The only other course is to determine the innocence or guilt of the accused after a hearing as dispassionate as the times and the horrors we deal with will permit, and upon a record that will leave our reasons and motives clear.

2. These hearings, however, must not be regarded in the same light as a trial under our system, where defense is a matter of constitutional right. Fair hearings for the accused are, of course, required to make sure that we punish only the right men and for the right reasons. But the procedure of these hearings may properly bar obstructive and dilatory tactics resorted to by defendants in our ordinary criminal trials.

Nor should such a defense be recognized as the obsolete doctrine that a head of state is immune from legal liability. There is more than a suspicion that this idea is a relic of the doctrine of the divine right of kings. It is, in any event, inconsistent with the position we take toward our own officials, who are frequently brought to court at the suit of citizens who allege their rights to have been invaded. We do not accept the paradox that legal responsibility should be the least where power is the greatest. We stand on the principle of responsible government declared some three centuries ago to King James by Lord Chief Justice Coke, who proclaimed that even a King is still "under God and the law."

With the doctrine of immunity of a head of state usually is coupled another, that orders from an official superior protect one who obeys them. It will be noticed that the combination of these two doctrines means that nobody is responsible. Society as modernly organized cannot tolerate so

broad an area of official irresponsibility. There is doubtless a sphere in which the defense of obedience to superior orders should prevail. If a conscripted or enlisted soldier is put on a firing squad, he should not be held responsible for the validity of the sentence he carries out. But the case may be greatly altered where one has discretion because of rank or the latitude of his orders. And of course, the defense of superior orders cannot apply in the case of voluntary participation in a criminal or conspiratorial organization, such as the Gestapo or the S.S. An accused should be allowed to show the facts about superior orders. The Tribunal can then determine whether they constitute a defense or merely extenuating circumstances, or perhaps carry no weight at all.

3. Whom will we accuse and put to their defense? We will accuse a large number of individuals and officials who were in authority in the government, in the military establishment, including the General Staff, and in the financial, industrial, and economic life of Germany who by all civilized standards are provable to be common criminals. We also propose to establish the criminal character of several voluntary organizations which have played a cruel and controlling part in subjugating first the German people and then their neighbors. It is not, of course, suggested that a person should be judged a criminal merely because he voted for certain candidates or maintained political affiliations in the sense that we in America support political parties. The organizations which we will accuse have no resemblance to our political parties. Organizations such as the Gestapo and the S.S. were direct action units, and were recruited from volunteers accepted only because of aptitude for, and fanatical devotion to, their violent purposes.

In examining the accused organizations in the trial, it is our proposal to demonstrate their declared and covert objectives, methods of recruitment, structure, lines of responsibility, and methods of effectuating their programs. In this trial, important representative members will be allowed to defend their organizations as well as themselves. The best practicable notice will be given, that named organizations stand accused and that any member is privileged to appear and join in their defense. If in the main trial an organization is found to be criminal, the second stage will be to identify and try before regular military tribunals individual members not already personally convicted in the principal case. Findings in the main trial that an organization is criminal in nature will be conclusive in any subsequent proceedings against individual members. The individual member will thereafter be allowed to plead only personal defenses or extenuating circumstances, such as that he joined under duress, and as to those defenses he should have the burden of proof. There is nothing novel in the idea that one may lose a part of or all his defense if he fails to assert it in an appointed forum at an earlier time. In United States war-time legislation, this principle has been utilized and sustained as consistent with our concept of due process of law.

4. Our case against the major defendants is concerned with the Nazi master plan, not with individual barbarities and perversions which occurred independently of any central plan. The groundwork of our case must be factually authentic and constitute a well-documented history of what we are convinced was a grand, concerted pattern to incite and commit the aggressions and barbarities which have shocked the world. We must not forget that when the Nazi plans were boldly proclaimed they were so extravagant that the world refused to take them seriously. Unless we write the record of this movement with clarity and precision, we cannot blame the future if in days of peace it finds incredible the accusatory generalities uttered during the war. We must establish incredible events by credible evidence.

5. What specifically are the crimes with which these individuals and organizations should be charged, and what marks their conduct as criminal?

There is, of course, real danger that trials of this character will become enmeshed in voluminous particulars of wrongs committed by individual Germans throughout the course of the war, and in the multitude of doctrinal disputes which are part of a lawyer's paraphernalia. We can save ourselves from those pitfalls if our test of what legally is crime gives recognition to those things which fundamentally outraged the conscience of the American people and brought them finally to the conviction that their own liberty and civilization could not persist in the same world with the Nazi power.

Those acts which offended the conscience of our people were criminal by standards generally accepted in all civilized countries, and I believe that we may proceed to punish those responsible in full

accord with both our own traditions of fairness and with standards of just conduct which have been internationally accepted. I think also that through these trials we should be able to establish that a process of retribution by law awaits those who in the future similarly attack civilization. Before stating these offenses in legal terms and concepts, let me recall what it was that affronted the sense of justice of our people.

Early in the Nazi regime, people of this country came to look upon the Nazi Government as not constituting a legitimate state pursuing the legitimate objective of a member of the international community. They came to view the Nazis as a band of brigands, set on subverting within Germany every vestige of a rule of law which would entitle an aggregation of people to be looked upon collectively as a member of the family of nations. Our people were outraged by the oppressions, the cruelest forms of torture, the large-scale murder, and the wholesale confiscation of property which initiated the Nazi regime within Germany. They witnessed persecution of the greatest enormity on religious, political and racial grounds, the breakdown of trade unions, and the liquidation of all religious and moral influences. This was not the legitimate activity of a state within its own boundaries, but was preparatory to the launching of an international course of aggression and was with the evil intention, openly expressed by the Nazis, of capturing the form of the German state as an instrumentality for spreading their rule to other countries. Our people felt that these were the deepest offenses against that International Law described in the Fourth Hague Convention of 1907 as including the "laws of humanity and the dictates of the public conscience."

Once these international brigands, the top leaders of the Nazi party, the S.S. and the Gestapo, had firmly established themselves within Germany by terrorism and crime, they immediately set out on a course of international pillage. They bribed, debased, and incited to treason the citizens and subjects of other nations for the purpose of establishing their fifth columns of corruption and sabotage within those nations. They ignored the commonest obligations of one state respecting the internal affairs of another. They lightly made and promptly broke international engagements as a part of their settled policy to deceive, corrupt, and overwhelm. They made, and made only to violate, pledges respecting the demilitarized Rhineland, and Czechoslovakia, and Poland, and Russia. They did not hesitate to instigate the Japanese to treacherous attack on the United States. Our people saw in this succession of events the destruction of the minimum elements of trust which can hold the community of nations together in peace and progress. Then, in consummation of their plan, the Nazis swooped down upon the nations they had deceived and ruthlessly conquered them. They flagrantly violated the obligations which states, including their own, have undertaken by convention or tradition as a part of the rules of land warfare, and of the law of the sea. They wantonly destroyed cities like Rotterdam for no military purpose. They wiped out whole populations, as at Lidice, where no military purposes were to be served. They confiscated property of the Poles and gave it to party members. They transported in labor battalions great sectors of the civilian populations of the conquered countries. They refused the ordinary protections of law to the populations which they enslaved. The feeling of outrage grew in this country, and it became more and more felt that these were crimes committed against us and against the whole society of civilized nations by a band of brigands who had seized the instrumentality of a state.

I believe that those instincts of our people were right and that they should guide us as the fundamental tests of criminality. We propose to punish acts which have been regarded as criminal since the time of Cain and have been so written in every civilized code.

In arranging these trials we must also bear in mind the aspirations with which our people have faced the sacrifices of war. After we entered the war, and as we expended our men and our wealth to stamp out these wrongs, it was the universal feeling of our people that out of this war should come unmistakable rules and workable machinery from which any who might contemplate another era of brigandage would know that they would be held personally responsible and would be personally punished. Our people have been waiting for these trials in the spirit of Woodrow Wilson, who hoped to "give to international law the kind of vitality which it can only have if it is a real expression of our moral judgment."

Against this background it may be useful to restate in more technical lawyer's terms the legal charges against the top Nazi leaders and those voluntary associations such as the S.S. and Gestapo

which clustered about them and were ever the prime instrumentalities, first, in capturing the German state, and then, in directing the German state to its spoliations against the rest of the world.

(a) Atrocities and offenses against persons or property constituting violations of International Law, including the laws, rules, and customs of land and naval warfare. The rules of warfare are well established and generally accepted by the nations. They make offenses of such conduct as killing of the wounded, refusal of quarter, ill treatment of prisoners of war, firing on undefended localities, poisoning of wells and streams, pillage and wanton destruction, and ill treatment of inhabitants in occupied territory.

(b) Atrocities and offenses, including atrocities and persecutions on racial or religious grounds, committed since 1933. This is only to recognize the principles of criminal law as they are generally observed in civilized states. These principles have been assimilated as a part of International Law at least since 1907. The Fourth Hague Convention provided that inhabitants and belligerents shall remain under the protection and the rule of "the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience."

(c) Invasions of other countries and initiation of wars of aggression in violation of International Law or treaties.

The persons to be reached by these charges will be determined by the rule of liability, common to all legal systems, that all who participate in the formulation or execution of a criminal plan involving multiple crimes are liable for each of the offenses committed and responsible for the acts of each other. All are liable who have incited, ordered, procured, or counselled the commission of such acts, or who have taken what the Moscow Declaration describes as "a consenting part" therein.

IV.

The legal position which the United States will maintain, being thus based on the common sense of justice, is relatively simple and non-technical. We must not permit it to be complicated or obscured by sterile legalisms developed in the age of imperialism to make war respectable.

Doubtless what appeals to men of good will and common sense as the crime which comprehends all lesser crimes, is the crime of making unjustifiable war. War necessarily is a calculated series of killings, of destructions of property, of oppressions. Such acts unquestionably would be criminal except that International Law throws a mantle of protection around acts which otherwise would be crimes, when committed in pursuit of legitimate warfare. In this they are distinguished from the same acts in the pursuit of piracy or brigandage which have been considered punishable wherever and by whomever the guilty are caught. But International Law as taught in the Nineteenth and the early part of the Twentieth Century generally declared that war-making was not illegal and is no crime at law. Summarized by a standard authority, its attitude was that "both parties to every war are regarded as being in an identical legal position, and consequently as being possessed of equal rights." This, however, was a departure from the doctrine taught by Grotius, the father of International Law, that there is a distinction between the just and the unjust war—the war of defense and the war of aggression.

International Law is more than a scholarly collection of abstract and immutable principles. It is an outgrowth of treaties or agreements between nations and of accepted customs. But every custom has its origin in some single act, and every agreement has to be initiated by the action of some state. Unless we are prepared to abandon every principle of growth for International Law, we cannot deny that our own day has its right to institute customs and to conclude agreements that will themselves become sources of a newer and strengthened International Law. International Law is not capable of development by legislation, for there is no continuously sitting international legislature. Innovations and revisions in International Law are brought about by the action of governments designed to meet a change in circumstances. It grows, as did the Common-law, through decisions reached from time to time in adapting settled principles to new situations. Hence I am not disturbed by the lack of precedent for the inquiry we propose to conduct. After the shock to civilization of the last World War, however, a marked reversion to the earlier and sounder doctrines of International Law took place. By the time the Nazis came to power it was thoroughly established that launching an aggressive war or the institution of war by treachery was illegal and that the defense of legitimate warfare was no

longer available to those who engaged in such an enterprise. It is high time that we act on the juridical principle that aggressive war-making is illegal and criminal.

The reestablishment of the principle of unjustifiable war is traceable in many steps. One of the most significant is the Briand-Kellogg Pact of 1928, by which Germany, Italy and Japan, in common with ourselves and practically all the nations of the world, renounced war as an instrument of national policy, bound themselves to seek the settlement of disputes only by pacific means, and condemned recourse to war for the solution of international controversies. Unless this Pact altered the legal status of wars of aggression, it has no meaning at all and comes close to being an act of deception. In 1932, Mr. Stimson, as Secretary of State, gave voice to the American concept of its effect. He said, "War between nations was renounced by the signatories of the Briand-Kellogg Treaty. This means that it has become illegal throughout practically the entire world. It is no longer to be the source and subject of rights. It is no longer to be the principle around which the duties, the conduct, and the rights of nations revolve. It is an illegal thing. . . . By that very act, we have made obsolete many legal precedents and have given the legal profession the task of reexamining many of its codes and treatises."

This Pact constitutes only one in a series of acts which have reversed the viewpoint that all war is legal and have brought International Law into harmony with the common sense of mankind, that unjustifiable war is a crime. Without attempting an exhaustive catalogue, we may mention the Geneva Protocol of 1924 for the Pacific Settlement of International Disputes, signed by the representatives of forty-eight governments, which declared that "a war of aggression constitutes . . . an international crime." The Eighth Assembly of the League of Nations in 1927, on unanimous resolution of the representatives of forty-eight member nations, including Germany, declared that a war of aggression constitutes an international crime. At the Sixth Pan-American Conference of 1928, the twenty-one American Republics unanimously adopted a resolution stating that "war of aggression constitutes an international crime against the human species."

The United States is vitally interested in recognizing the principle that treaties renouncing war have juridical as well as political meaning. We relied upon the Briand-Kellogg Pact and made it the cornerstone of our national policy. We neglected our armaments and our war machine in reliance upon it. All violations of it, wherever started, menace our peace as we now have good reason to know. An attack on the foundations of international relations cannot be regarded as anything less than a crime against the international community, which may properly vindicate the integrity of its fundamental compacts by punishing aggressors. We therefore propose to charge that a war of aggression is a crime, and that modern International Law has abolished the defense that those who incite or wage it are engaged in legitimate business. Thus may the forces of the law be mobilized on the side of peace.

Any legal position asserted on behalf of the United States will have considerable significance in the future evolution of International Law. In untroubled times, progress toward an effective rule of law in the international community is slow indeed. Inertia rests more heavily upon the society of nations than upon any other society. Now we stand at one of those rare moments when the thought and institutions and habits of the world have been shaken by the impact of world war on the lives of countless millions. Such occasions rarely come and quickly pass. We are put under a heavy responsibility to see that our behavior during this unsettled period will direct the world's thought toward a firmer enforcement of the laws of international conduct, so as to make war less attractive to those who have governments and the destinies of peoples in their power.

V.

I have left until last the first question which you and the American people are asking—when can this trial start and how long will it take. I should be glad to answer if the answer were within my control. But it would be foolhardy to name dates which depend upon the action of other governments and of many agencies. Inability to fix definite dates, however, would not excuse failure to state my attitude toward the time and duration of trial.

I know that the public has a deep sense of urgency about these trials. Because I, too, feel a sense of urgency, I have proceeded with the preparations of the American case before completion of the diplomatic exchanges concerning the

Tribunal to hear it and the agreement under which we are to work. We must, however, recognize the existence of serious difficulties to be overcome in preparation of the case. It is no criticism to say that until the surrender of Germany the primary objective of the military intelligence services was naturally to gather military information rather than to prepare a legal case for trial. We must now sift and compress within a workable scope voluminous evidence relating to a multitude of crimes committed in several countries and participated in by thousands of actors over a decade of time. The preparation must cover military, naval, diplomatic, political, and commercial aggressions. The evidence is scattered among various agencies and in the hands of several armies. The captured documentary evidence—literally tons of orders, records, and reports—is largely in foreign languages. Every document and the trial itself must be rendered into several languages. An immense amount of work is necessary to bring this evidence together physically, to select what is useful, to integrate it into a case, to overlook no relevant detail, and at the same time and at all costs to avoid becoming lost in a wilderness of single instances. Some sacrifice of perfection to speed can wisely be made and, of course, urgency overrides every personal convenience and comfort for all of us who are engaged in this work.

Beyond this I will not go in prophecy. The task of making this record complete and accurate, while memories are fresh, while witnesses are living, and while a tribunal is available, is too important to the future opinion of the world to be undertaken before the case can be sufficiently prepared to make a creditable presentation. Intelligent, informed, and sober opinion will not be satisfied with less.

The trial must not be protracted in duration by anything that is obstructive or dilatory, but we must see that it is fair and deliberative and not discredited in times to come by any mob spirit. Those who have regard for the good name of the United States as a symbol of justice under law would not have me proceed otherwise.

May I add that your personal encouragement and support have been a source of strength and inspiration to every member of my staff, as well as to me, as we go forward with a task so immense that it can never be done completely or perfectly, but which we hope to do acceptably.

Respectfully yours, ROBERT H. JACKSON.

Telecommunication and Postal Services to Europe

[Released to the press June 9]

Telecommunication and postal services to the countries of Europe with which service had been restricted or suspended during the war in Europe have been reestablished as rapidly as has been feasible and practicable. At the present time there remain but a few areas with which some type of communication service has not been resumed.

Telegrams may be sent to the following countries: Belgium, Bulgaria, Czechoslovakia, Denmark, Finland, France, Great Britain, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Rumania, Spain, Sweden, Switzerland, Turkey, and the U.S.S.R.

Postal service is open to the following countries: Belgium, Bulgaria, Denmark, Finland, France, Great Britain, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Rumania, Spain, Sweden, Switzerland, Turkey, and the U.S.S.R. Full mail service is not open to these countries in all cases. Parcel-post service is in operation only to France, Great Britain, Ireland, Italy (for gift parcels only and to Naples, Rome, Palermo, and the Vatican State only), Portugal, Spain, Turkey, and the U.S.S.R., subject to limitations as to contents imposed by the Foreign Economic Administration.[1]

With regard to those countries which remain blocked under Treasury Department freezing regulations, outgoing communications will, of course, continue to require Treasury licenses.

The question of the relaxation of present restrictions on international telephone calls between the United States and countries of Europe is at present under active consideration, and it is hoped that a press release on this subject may be issued in the near future.

While the above information indicates the status of communications services to European countries at this time, it is expected that further services may be opened shortly. Local cable companies and local post offices will be able to answer inquiries regarding authorized telegraph and postal services respectively and any restrictions thereon. Information regarding necessary Treasury licenses may be obtained from local banks or Federal Reserve Banks.

[1] For article on international mails during wartime, see BULLETIN of May 6, 1945, p. 868.

Renewal of Trade Agreements Act

Statement by CHARLES P. TAFT[1]

[Released to the press June 5]

I have followed the hearings before this committee with the greatest interest, because they have brought to the fore the basic issues involved in the renewal of the Trade Agreements Act with increase of bargaining power. I am testifying only because it may perhaps be useful for the members of the committee and for the record available to the other members of the Senate to bring together in one place the position of the trade-agreements organization on those basic issues, as well as on certain other questions of principle raised in the hearings.

I do not like to labor the very ancient point that foreign trade is desirable, but at least one witness has opposed any foreign trade at all, and during the hearings the question has been asked whether something involving only 7 percent of our total production can be important to our economy.

You will notice at page 14 of part 19 of the House hearings the prepared statement of Franklin Johnston, of the publication, *American Exporter*, following his most interesting testimony. He took a poll of manufacturers who export, and had 325 replies. Notwithstanding the fact that these manufacturers do 84 percent of their business in the domestic market, 248 favored the renewal for three years with increased authority, that is, the measure which is before you, and only 39 were opposed.

The general position of these manufacturers is well illustrated by the very excellent statement of G. C. Hoyt, vice president of International Harvester, presented to the House Ways and Means Committee, to which I shall refer more fully later.

"Seven-percent exports" is not a fair picture of the importance of export business. There are many essential imports which we must have, since we are far from a self-sufficient nation, or one that could be made self-sufficient. For these we can pay only with exports, in the long run.

Exports offer the opportunity for good business. Frequently in a marginal business in either industry or agriculture exports make the difference between prosperity and the opposite. Don't forget that wheat in the northwest ranges from 50 percent to 70 percent export crops.

Foreign investments by exports can do a job of world industrialization in non-industrialized countries, which can raise the standard of living there in an intelligent and non-philanthropic way, to our own benefit. For our best customers abroad are the most highly industrialized countries.

In the House these "export" industries so-called (with 84 percent domestic business) were by inference attacked on the theory that by operating branch plants in other countries, or sending capital goods there, we "exported" jobs. Here is what Mr. Hoyt had to say on the subject of assistance to other countries in their industrialization:

"International Harvester and its predecessor companies have been actively engaged in foreign trade for more than 70 years. Originally, all the farm equipment sold abroad was made in American factories. This situation has gradually changed in different countries. It has proved necessary and desirable to carry on certain manufacturing operations in foreign countries for several reasons.

"The very success of our Company and its predecessors in foreign markets stimulated local competition, especially in the more industrially minded foreign nations, where capital, labor, and raw materials existed in adequate quantities. National policies of encouraging such enterprises developed and buyers were urged to patronize home industries. This produced a situation where, after many years of successful business, we were forced to choose between losing a substantial part of our established foreign trade in such countries, or taking measures to preserve it as far as possible.

"Consequently, the Harvester Company, through foreign subsidiary companies, entered into manufacture in Canada in 1904, in Sweden in 1907, in France and Germany in 1910, and in Australia in 1938.

"The result, we believe, justified this policy. The manufacture of certain implements in foreign countries did more than preserve our market for those particular implements. It preserved and improved the good-will and reputation of our

[1] Made before the Senate Finance Committee on June 5, 1945. Mr. Taft is Director of the Office of Transport and Communications Policy, Department of State.

Striking Out of Bargaining Power by Senate Finance Committee

Statement by ACTING SECRETARY GREW

[Released to the press June 8]

I am deeply disappointed by the action of the Senate Finance Committee today in striking out of the trade-agreements bill, by the narrow margin of one vote, the bargaining power which is indispensable to the negotiation of new trade agreements. If sustained by the Senate this action would be a crippling blow to the program.

The mere extension of the law without additional authority, as proposed by the majority of the Finance Committee, would be an empty symbol of our hopes for cooperation with the rest of the world in the economic field.

I am confident that Senator George will be successful in his announced intention to carry this issue to the floor of the Senate and to secure passage of the bill in the form which the House approved so decisively.

Company and its sales organization and trade connections. This, in turn, enabled the Company to retain and even increase the market for many other types of farm equipment which were, and are, made in America, exported and distributed through the same channels as the foreign-manufactured implements. The machines manufactured abroad have been either those which could not be imported from the United States on a competitive basis or those which were not used by farmers in the United States and for which there was no American manufacturing program. Because of the diversity of world agricultural methods, there were, and are, a considerable number of machines of this latter type.

"It is sometimes asserted that the entrance of an American company such as ours into foreign manufacture results in the 'exporting' of jobs and the loss of employment in this country. This is true in theory but, in our experience, not in practice.

"Our foreign manufacturing has preserved and created markets for our American-made products and has actually been a substantial factor in increasing the employment in our American plants. It has even helped to level the peaks and valleys of employment in our American plants. There have been periods of business depression when our export business suffered less than our domestic business and thus had a beneficial effect in maintaining employment in this country when it was most needed.

"Because it has increased our total foreign business, our foreign manufacturing has had other beneficial effects. First, it has widened the use of our farm equipment, which has improved the production of foreign farmers and thereby increased their income, enabling them to buy more imported products. Second, it has increased industrial activity in the countries concerned and thereby contributed to a higher standard of living and helped to make them customers for many other American-made products, including farm products. Third, it has been directly responsible for increased business for other American manufacturers from whom we buy supplies, parts, or sub-assemblies. An International Harvester tractor with rubber tires represents not only the export sale of a tractor but the export sale of tires and of many other items not made but purchased by our Company.

"We cite our experience with foreign manufacturing to illustrate the fact that industrialization of foreign countries is not a loss to our country, but quite the contrary. To the extent that living standards are increased there is more desire for American products, and to the extent that industrial production is increased the foreign nation has more goods to trade for ours, or expressed in financial language, more available exchange. To the extent that local manufacture reduces the necessity for a foreign country to use its exchange in importing farm machinery, mathematically there is that much more available exchange to buy other American products. All of these changes take time and are gradual and involve some shifts of employment, but the net effect to both nations will, in most cases, be highly beneficial."

It is often said in this connection that our record in foreign investment is not particularly encouraging. That is true, but it is no worse than our record in investment at home. The loss in market values, or the loss by almost any other measure, in foreign loans, is certainly not as bad as in real-estate bonds of the 1920's, and foreign investments

on the New York Stock Exchange records show up as well as domestic stocks and bonds.

The truth is that foreign investment is an art as well as a business, and the experience of the last 25 years has, I hope, given us greater capacity for success in our probable post-war character as the world's greatest creditor nation. Certainly no one needs to apologize for the record of International Harvester or of any one of many other American companies who have invested abroad, and export to build up our foreign trade.

When these investments are made—and I think it inevitable that we will make heavy business investments abroad during the post-war years—the only way to service the investment is by imports of goods into the United States, either directly or in three- or four-way trade. That obvious truth has now been so well learned that I doubt whether Mr. Coolidge's famous remark about the debts from the first World War would be repeated today.

Even Mr. Besse, the representative of the Wool Manufacturers Association, who argues so strenuously for the maintenance of tariff barriers, realizes he must do something about exports, for he has recently attacked estimates of 10 billion dollars of exports post-war, not on the ground that they are inflated or inaccurate, but on the ground that imports should be limited to 5 billion dollars. From that particular speech it is clear that Mr. Besse is almost driven to a program for limiting exports. But I wonder whether he or any of the other opponents of the bill would want the continuance of government controls that is necessary to implement such a program.

So in the agricultural field a small group headed by Mr. Sexauer, of Minnesota, whose report to the U.S. Chamber of Commerce, not approved by the Chamber, has been read into the *Congressional Record* on this bill, advocates a similar but more extreme exclusion policy that amounts to a total economic isolationism. They urge that we don't have to depend on imports but should raise everything except perhaps items like tea and coffee. They assert that shortages are minor and that it would take little to make us self-sufficient. They estimate with nostalgic care the acreage we could devote to cotton instead of importing jute, sisal, or abacá. They tell us about the benefits we would distribute to the natives of the Netherlands East Indies or Malaya by ending our purchases of crude rubber, the curse of their low standard of living.

The fact is we are getting less self-sufficient year by year, and 50 years from now at probable post-war rates of use we shall be approaching in many cases the point where we shall have to export to pay for the imports we must have to live.

Thus it is that national defense becomes an increasingly important consideration in foreign trade. It was for that reason that the State Department welcomed the addition in a formal way of the War and Navy Departments to the trade-agreements organization by the Mills amendment in the House.

The reciprocal trade-agreements program was devised in 1934 as a means for reducing what was considered by a great majority of observers an excessive U.S. tariff barrier to international trade, and which had brought about wide-spread retaliation at a time of depression when the defensive psychology was prevalent around the world. The reduction of trade barriers reciprocally was conceived as one step toward an expanding of foreign trade and business on a two-way basis, with the improved international relations that should follow. That does mean, and did mean, improved employment.

The objective is the same today, adapted to the differing circumstances. Increased trade in both directions, better international relations, and the elimination of friction that might help cause war, are as important today as they were in 1934. There are new reasons for the program, which I shall discuss in a moment, even more cogent to my mind.

But the program is a modest one, sometimes unduly puffed by its friends. I am not presenting it as a cure-all. I prefer the type of conservative comments, well documented, by Professor T. W. Schultz, then of Iowa State, now of the University of Chicago, which Ed O'Neal, of the Farm Bureau Federation, presented as part of his statement in 1940. They are in considerable part relevant today. Schultz said about the Belgian agreement, one of the first:

"Trade with the United States has increased markedly in the post-agreement years. Obviously this is in large measure due to generally more favorable conditions in both countries. Just as obviously, the trade agreement contributed in some measure to this result. It is not necessarily surprising that increased Belgian imports from the United States came chiefly in non-concession

items. As an industrial country, reviving prosperity in Belgium necessitated the importation of certain basic materials for the use of industry. Some such materials, especially cotton, were not subjects of negotiation in the agreement. None the less it is clear that our increased imports from Belgium, partly resulting from the trade agreement, were a necessary condition for the amount of Belgian imports from us being as large as it was.

"Our agricultural exports to Belgium did not benefit so greatly due to two general considerations. First, our own drought and high prices harmed our world competitive position in some crops. Second, Belgium has not relinquished a large measure of the agricultural protectionism she imposed on herself in the earlier 1930's. To some extent this is consciously a result of the continued desire on the part of Belgium to aid some agricultural groups within that country. On the other hand, it is another example of the monotonously repetitive phenomenon that tariff and administrative protectionism once having created vested interest groups, the trade restrictions tend to stick, no matter what the good intentions of the party in power."

That is the kind of testimony that carries weight with me, and, I believe, most of the American public. It is the sort of careful study that lies back of the statement that from 1934 to 1939 both exports and imports with agreement countries increased twice as fast as with non-agreement countries.

Our friends of the American Tariff League have struggled hard with that one, objecting to putting Germany among the non-agreement countries, and insisting that because we had an agreement with Britain from January 1, 1939, British figures for 1934 to 1939 inclusive should be included in agreement countries. The argument does not stand up, but the conclusive character of my figures should not be insisted on. They are not conclusive. They are the preponderance of the evidence, and in my opinion they show that the program has had importantly beneficial results for us.

The American Tariff League has also made much of the fact that our exports and imports from 1924 to 1929 were greater in dollar value than from 1934 to 1939. The unfairness of the comparison is so obvious that I was glad to hear Senator Hickenlooper point out the other night that in a similar comparison, by volume or quantity rather than by dollar value, 1934 to 1939 equaled the prosperity years of the 1920's. Coming from the bottom of our greatest depression, that is a first-class showing for which I claim some credit for our reciprocal trade-agreements program. It is certainly *not* a demonstration, as I have heard claimed, that the program, like every tariff revision, causes our standards to suffer.

For my own part I am convinced, on the basis of a careful study of the results, that the trade-agreements program has been significantly worthwhile, and that it offers even greater promise for the future, provided it is given the opportunity to continue under an effective grant of authority from the Congress.

I have given considerable thought to the various proposals for attaching limitations to the authority conferred by the act, and I should like to comment briefly on one of the suggestions that has always had a considerable appeal, that is, the proposal that the authority to adjust rates should be limited to equalizing cost of production at home and abroad. I agree that such information as is available on this point should certainly be used in administering the act, as it has been used during the 11 years under the act, but I cannot agree with the theory that this is the whole answer to the problem. Let me give three examples that will illustrate my point.

Who is to say what is the cost of producing casein in this country or in Argentina? It is a by-product which the farmer dumps or feeds or sells according to fortuitous circumstances. And neighboring farmers, or farmers in other regions, may treat it very differently. And cost may vary, depending on whether it is summer or winter, what time is available to the farmer, and what his time at the moment is worth.

Similarly the determination of costs of individual by-products in corn-products manufacturing, or in packing-houses, or in certain chemical plants is close to impossible.

Finally, the example of cotton textiles shows the possibility of wide variations in this country or in foreign countries. Many Japanese mills were inefficient compared to ours, but their best mills developed machinery much more efficient than ours, and their low wages thereupon made them a damaging competitor. The recent Platt Commission of Great Britain has reported that on the various operations a cross-section of our plants, in spite

of wages I have heard stated as two and a half times as much as in England, were 18 to 89 percent more efficient on a unit cost basis. But the report has also been criticized to me, by one who should know, as selective of the United States cross-section in a way that calls for some discount of its conclusions.

According to all the testimony I know on the matter of the difference in the cost of production as a criterion for tariff making, it is one element only, of varying value, and in many cases of no use at all. The truth is that the problem is largely one of exercising practical judgments after appraising a host of relevant economic factors of which cost of production is merely one.

Probably the most persistent misconception which is held concerning the reciprocal trade-agreements program is that it is a device by which the pattern of American industry and agriculture might be completely changed. As Mr. Clayton testified, nothing could be further from the truth. The program has not changed the pattern of industry and agriculture; it has sought to give existing industry and agriculture a chance to expand. The very assumption of Mr. Clayton's assurance against serious injury to any essential American industry, and of the President's letter to the Speaker of the House the day this bill was passed there, is that there can be no such effort under this law.

The fact is—and I am glad that the occasion for each renewal of the act affords an opportunity to make it clearer—that the trade-agreements law itself really has nothing to do with the traditional tariff issue. The issue is no longer the historic question of tariff for protection or tariff for revenue only. Congress has made it abundantly clear—and I think there is no difference on this between Republicans and Democrats—that it will not permit existing tariffs to be reduced to a point where any segment of American industry or agriculture would suffer serious injury. Within the boundary of this controlling policy, the Trade Agreements Act is the mechanism by which individual rates of duty can be adjusted carefully and selectively, in exchange for valuable concessions from other nations, all with a view to creating the conditions in which a sound and thriving foreign commerce can be carried on. I suppose it is unavoidable that in the public debate on the Trade Agreements Act we are bound to hear some extreme arguments on both sides. But I think anyone who has thoroughly studied the administration of the trade-agreements program must conclude that it has at all times been administered with the utmost care to make certain that American industry and agriculture would not suffer destructive competition from abroad as a result of any concessions granted under this act. The complete congressional review which occurs every two or three years is certainly ample guarantee that the Executive branch will administer the act with the same care in the future as in the past, and the President has explicitly pledged that policy.

But protection to American industry and agriculture ought to stop at the point where wholesome competition stimulates energy and initiative and progressive methods to serve the American public, an objective in the true interest of both domestic business and agriculture and of the American consumer. In achieving that result we can admit a large volume of imports, without affecting the home market for American producers who will always have the lion's share of it.

You will see from what I have said that this argument every two or three years has been on an imaginary battlefield between free trade and high protection. What the trade-agreements program is slowly bringing about is a moderate tariff policy which will permit an expanding foreign commerce but without serious injury to essential domestic producers. Look at the caution with which these agreements have been planned, studied, negotiated, and approved. Look at the modesty of the cuts. It took three years to cut 12½ percent of imports by value to the full 50 percent; six years to cut 24 percent; eleven years to cut 42 percent of imports to that full extent. Look at the many reclassifications that have limited the effects of the most-favored-nation clause. Look at the escape clause in the French agreement about third countries whose imports under the generalization by that clause might unexpectedly multiply. Look finally at the escape clause in the Mexican agreement referred to by Mr. Clayton and Mr. Ryder. Even with the increased authority this is not and never could be a free-trade policy. It is in fact an intelligent moderate tariff policy.

One of the major questions with which some members of this committee and of the Senate are concerned is the unconditional most-favored-nation clause. I have recently reviewed the Department's files on its origin and the reasons for the policy. What I have to say is based on that study.

The real question you have to decide when you approach this old question is whether you are really going out to get equality of treatment, and to give it. If you answer that question in the affirmative, then you are for the unconditional most-favored-nation principle. But there is a real difference of opinion between those who think that the world of equality in trade without discrimination is a pipe dream, and those who believe it is not impossible to achieve and is worth fighting for. The first position is stated very effectively by Matthew Woll in a speech he made in 1944 reported in the New York *Times*, as follows:

" 'There is no convincing evidence', Mr. Woll stated, 'that after the war principal countries will have either the means or the desire to abandon state control of foreign trade and foreign exchange.

" 'Trade in the post-war period, [organized labor] fear, will be controlled by the political and economic objectives of each nation concerned with maintaining domestic employment' ".

The Government was charged last September with just that kind of planning, and at the Foreign Trade Council in October I took pleasure in denying it. All the Government agencies are aiming toward equality of treatment abroad for us, and give it, as far as war controls permit either.

Our tariff acts themselves give equality now, after unsuccessful experiments in the Dingley and Payne-Aldrich tariff acts, setting up the double-column tariff. It is worth recalling to you that the change in policy took place in the settlement in conference on the Fordney-McCumber act between the House view which wanted to continue the Payne-Aldrich pattern, and the Senate which wanted to give equality and to take steps to secure it. The report of the House managers later accepted by the House makes the issue clear:

"Sections 301 and 303 of the House bill provide for special negotiations whereby exclusive concessions may be given in the American tariff in return for special concessions from foreign countries. Section 302 of the House bill places in the hands of the President power to penalize the commerce of any foreign country which imposes on its imports, including those coming from the United States, duties which he deems to be 'higher and reciprocally unequal and unreasonable'. Under the Senate amendment, however, the United States offers, under its tariff, equality of treatment to all nations, and at the same time insists that foreign nations grant to our external commerce equality of treatment; and the House recedes with an amendment rewriting subdivisions (e) and (f) and making further clerical changes."

The State Department had already become involved in a study of this problem by the passage of the Jones act with its effects on reciprocal treatment of merchant-marine matters. It began at once a study of foreign discriminations and the best way to overcome them. In fact a review of the documents makes one think he is looking at memoranda prepared today, for the difficulties and the questions are almost identical.

The conclusion reached by Mr. Hughes, President Harding, and, a year later when the issue was squarely raised in the German commercial treaty, by Senator Lodge was that we should abandon the conditional or *quid pro quo* most-favored-nation clause, and adopt the unconditional most-favored-nation treatment, with generalization to all non-discriminating nations of benefits given to one nation.

Two comments should be noted on this. It was not a principle imported into a tariff act by either an outside theoretician or a free-trader. It was the decision on the Tariff Act of 1922 by the conferees. The State Department then decided that the principle adopted by Congress should be given general application and set out to accomplish this by reviewing all existing commercial arrangements. They planned to make new commercial treaties with all countries where existing treaties were out-moded, with this principle in them. The Department took the Fordney-McCumber act as a mandate to study and eliminate discriminations in the broadest sense, and the unconditional most-favored-nation principle was considered the most effective way to do it.

The first class of discriminations they found was the British Empire tariff preferences. The next was the double-column duties of countries such as France, or of other countries where the lower duty was on a reciprocal basis for the equivalent concessions. About six months later the study of the situation turned up as important discriminations trick tariff classifications and non-tariff dis-

criminations, first described as import licenses, but soon identified as our old friends the quotas.

The tariff act gave the President the power to impose penalties as indicated before, but it was clear that negotiation was the way to get results, with that power in the background. Imposing the penalties could easily start a tariff war, and that has happened to us.

Here is the departmental memorandum of October 1922, which shortly after was followed by Mr. Hughes' opinion in the matter:

"(a) The period preceding the war witnessed the expansion of American industrial production to a point exceeding the demand of the home market. Exportation became essential to industrial prosperity. Foreign markets in which no other exporter had an artificial advantage became, consequently, a *sine qua non* to continued industrial expansion. The vast increase in the actual and potential output of American factories occasioned by the World War augmented the need for foreign markets.

"(b) Under the commonly employed form of the limited or conditional most-favored-nation clause its advantages become applicable only when a country, party to the treaty, is able to furnish compensation for equality of treatment equivalent to that which a third country has already paid for whatever favor has been accorded. The conditional most-favored-nation clause does not, as is thus seen, guarantee equality of treatment. It merely promises an opportunity to bargain for such treatment. In practice, the ascertaining of what may constitute equivalent compensation is likely to be found impracticable. In recent studies of the commercial relations of the United States with France, Spain, Guatemala and Salvador, this Office has been impressed with the inadequacy of such a clause to improve our commercial position.

"2. In view of the facts just set forth, it is obvious that an extensive and expanding foreign commerce needs a guaranteed equality of treatment which cannot be furnished by the conditional form of most-favored-nation clause. The unconditional most-favored-nation clause, and it only, is applicable to the practical situation which confronts the commerce of the United States today.

"3. The traditional policy of the United States has been, with much consistency, one of commercial equality and the Open Door. Our first commercial treaty, that of 1778 with France, sought to pry open, even if slightly, the barred door of commercial restrictions which resulted from the mercantilist conceptions then still dominant in economic thought. Because of the weakness of the United States and because of the temporary economic and political conditions then obtaining, the limited most-favored-nation clause was the most practical instrument to serve our purpose. It was accordingly made use of and was continued in subsequent treaties and in the interpretation of treaties.

"With the changes which a century and half have brought both at home and abroad, the object in view is now best, indeed only, obtainable through the unconditional most-favored-nation clause. To continue the old type of clause would be to insist upon form and apparent continuity at the sacrifice of practical advantage and real continuity of principle.

"4. The fairness and liberality implied in a system of unconditional most-favored-nation treaties encourages commerce through the impetus it gives to good will and friendship among nations. Conditional most-favored-nation treatment permits and often results in special concessions to some instead of equal treatment for all. Comparatively speaking, it arouses antagonism, promotes discord, creates a sense of unfairness and tends in general to discourage commerce.

"5. The conditional form of most-favored-nation clause has no advantages over the unconditional except to a nation which wishes to obtain—and consequently must be willing to give—special concessions. Whilst tariff concessions, obtained through reciprocity treaties, seem to bring certain immediate advantages in the markets to which they apply, they also invite retaliation from those countries that are discriminated against in our markets. The experience of the United States in the past has been that special concessions secured by reciprocity transactions are not generally worth their cost.

"6. There is advantage in having uniformity of language and interpretation in the treaties of the leading nations of the world. The other leading nations, prior to the World War, had adopted, generally, the unconditional most-favored-nation clause. It is the consensus of opinion that, in their post-war treaty development, these nations are gradually returning to the old unconditional sys-

tem. The peculiar interpretation adopted by the United States has caused a number of serious diplomatic misunderstandings in the past. Uniformity would tend to eliminate conflict, prevent charges of unfairness, promote commerce and improve international relations."

The usual argument against the most-favored-nation clause is that the third country pays nothing for what it gets by our generalizing a trade-agreement concession to it. But that is not true, for it gets the concession only if it does not discriminate. The consideration it gives is to remove existing discriminations and in effect to agree that it will give equal treatment in the future. If it does not, but makes a special deal with someone else, which hurts us, that is ground for withdrawing the generalization. If the third country is one with which we have a most-favored-nation arrangement, it has agreed to give us the benefits in the future of any agreements it makes.

But all this is theoretical. In fact, no one objecting to the most-favored-nation clause has shown a single instance where generalization of a concession has hurt us. That is because the agreements have been made with the principal supplier in fact, and the incidental equality of treatment to other suppliers is simply the Open Door policy in reverse, on which we insist for our exporters.

But you are probably thinking in very specific terms of various kinds of producers when you are disturbed at possible effects of generalization of concessions.

The first are the backward countries who are planning to industrialize. But it is completely clear that they will only be industrialized by proceeds of export of their raw materials and by loans, not by exports of manufactured goods. China will be fully occupied in supplying her own people with urgent necessities of life, textiles for instance, just as Mr. Rieve pointed out in his testimony. These textiles industries, he said, on a world-wide basis, would have to multiply manifold before they can meet their own market.

Another group are the devastated continental countries like France, with industrial experience and knowledge, which need to expand exports rapidly to achieve a balance in payments for their essential imports. The very fact that they must expand quickly is assurance that they must stick to the old products and old customers. The inflation against which they are all struggling and the difficult labor conditions are equal assurance that their costs are not going to be low, or their wages either, in relation to countries like the United States and the United Kingdom, where in general the line has been held. Dumping here we can prevent by the existing act.

Mr. Clayton has stated most effectively the reasons for an increased authority. I only wish to underline the delicate balance in those nations across the water between the supporters of state-managed foreign trade and those who want to move from necessary current controls to free enterprise as soon as possible.

We need bargaining power beyond the little that is left, for dealing with the British and the other great trading nations who are our best customers and for demonstrating in such dealings that we can provide leadership to get back to a real competitive system in the field of foreign trade. With any of them the concessions we can afford to give may not be great, but in sum they mean a real boost of trade. They are one of the few ways we can fight to lead the world from the directed economy of war slowly back to what is essentially a free-enterprise system.

What is our alternative? We don't want bilateralism, discrimination, increasing government management of foreign trade, and increased danger of government conflict instead of ordinary business competition. Surely no one can advocate that we let discriminations pass with no action. So we are left with only one real alternative, and that is a vigorous use of the reciprocal trade-agreements program, fully implemented, together with all other means at our disposal to promote equality of treatment in foreign commerce.

Visit of the President of Chile

***Statement by* THE PRESIDENT**

[Released to the press by the White House June 8]

It is a pleasure to announce that His Excellency Juan Antonio Ríos, President of Chile, will visit the United States in October of this year as an official guest of this Government.

President Ríos originally planned to visit the United States in 1942 by invitation of President

Roosevelt. However, circumstances necessitated a postponement of the contemplated visit. It was my privilege to renew this invitation, and I am gratified that President Ríos has found it possible to accept at this time. I look forward not only to welcoming President Ríos to this country, but also to the pleasure of knowing him personally.

VOTING PROCEDURE—*Continued from page 1047.*

make recommendations, even when all parties request it to do so, or to call upon parties to a dispute to fulfill their obligations under the Charter, might be the first step on a course of action from which the Security Council could withdraw only at the risk of failing to discharge its responsibilities.

6. In appraising the significance of the vote required to make such decisions or actions, it is useful to make comparison with the requirements of the League Covenant with reference to decisions of the League Council. Substantive decisions of the League of Nations Council could be taken only by the unanimous vote of all its members, whether permanent or not, with the exception of parties to a dispute under article XV of the League Covenant. Under article XI, under which most of the disputes brought before the League were dealt with and decisions to make investigations taken, the unanimity rule was invariably interpreted to include even the votes of the parties to a dispute.

7. The Yalta voting formula substitutes for the rule of complete unanimity of the League Council a system of qualified majority voting in the Security Council. Under this system non-permanent members of the Security Council individually would have no "veto". As regards the permanent members, there is no question under the Yalta formula of investing them with a new right, namely, the right to veto, a right which the permanent members of the League Council always had. The formula proposed for the taking of action in the Security Council by a majority of seven would make the operation of the Council less subject to obstruction than was the case under the League of Nations rule of complete unanimity.

8. It should also be remembered that under the Yalta formula the five major powers could not act by themselves, since even under the unanimity requirement any decisions of the Council would have to include the concurring votes of at least two of the non-permanent members. In other words, it would be possible for five non-permanent members as a group to exercise a "veto". It is not to be assumed, however, that the permanent members, any more than the non-permanent members, would use their "veto" power wilfully to obstruct the operation of the Council.

9. In view of the primary responsibilities of the permanent members, they could not be expected, in the present condition of the world, to assume the obligation to act in so serious a matter as the maintenance of international peace and security in consequence of a decision in which they had not concurred. Therefore, if majority voting in the Security Council is to be made possible, the only practicable method is to provide, in respect of non-procedural decisions, for unanimity of the permanent members plus the concurring votes of at least two of the non-permanent members.

10. For all these reasons, the four sponsoring Governments agreed on the Yalta formula and have presented it to this Conference as essential if an international Organization is to be created through which all peace-loving nations can effectively discharge their common responsibilities for the maintenance of international peace and security.

II

In the light of the considerations set forth in part 1 of this statement it is clear what the answers to the questions submitted by the subcommittee should be, with the exception of question 19. The answer to that question is as follows:

1. In the opinion of the delegations of the sponsoring governments, the draft Charter itself contains an indication of the application of the voting procedures to the various functions of the Council.

2. In this case, it will be unlikely that there will arise in the future any matters of great importance on which a decision will have to be made as to whether a procedural vote would apply. Should, however, such a matter arise, the decision regarding the preliminary question as to whether or not such a matter is procedural must be taken by a vote of seven members of the Security Council, including the concurring votes of the permanent members.

Arrest of State Department Employee and Foreign Service Officer

[Released to the press June 6]

On June 6, 1945 the Acting Secretary of State issued the following statement:

"Officers of the Department of State have for some time been giving special attention to the security of secret and confidential information. A few months ago it became apparent that information of a secret character was reaching unauthorized persons not only from the Department of State but from the Department of the Navy as well. After consultation with the Department of the Navy, the Federal Bureau of Investigation was requested to conduct a thorough investigation of the matter. For the past two and a half months the three departments have been working together to determine how this official secret data was obtained by unauthorized persons.

"The investigation has resulted in the arrest by Special Agents of the FBI of six persons who are to be taken before United States Commissioners in Washington and New York on charges of conspiring to violate Section 31, Title 50, U. S. C. A., which covers the unauthorized possession or transmittal of national-defense data. Particulars concerning these persons will be released to the press by the Federal Bureau of Investigation. Two of those arrested are Emmanuel S. Larsen, an employee of the Department of State, and John S. Service, a Foreign Service officer.

"The matter is now in the hands of the Department of Justice for prosecution."

Consideration of Foreign-Airlines Requirements

[Released to the press June 6]

The Department of State and the Foreign Economic Administration have followed with considerable interest the development of War Production Board Order P–47A which permits the production of new aircraft for the domestic airlines. As a result of consultation with the War Production Board, the Foreign Economic Administration, in conjunction with the Department of State, is preparing an estimate of the requirements for new aircraft of foreign airlines engaged in war-supporting activities, relief, rehabilitation, and reconstruction. This preliminary estimate will be submitted to the War Production Board by the Foreign Economic Administration shortly.

THE DEPARTMENT

Division of Southeast Asian Affairs [1]

Purpose. This order is issued to reflect more accurately the geographic areas with which the Division of Southwest Pacific Affairs is concerned and to eliminate the confusion in routing symbols which the present name occasions.

1 *Change in name of the Division.* The name of the Division of Southwest Pacific Affairs of the Office of Far Eastern Affairs is hereby changed to Division of Southeast Asian Affairs.

2 *Functions of the Division.* The functions of the Division shall remain unchanged.

3 *Routing symbol.* The routing symbol of the Division of Southeast Asian Affairs shall be SEA.

4 *Order amended.* Departmental Order 1301 of December 20, 1944 is amended accordingly.

JOSEPH C. GREW
Acting Secretary of State.

Appointment of Officers

Cloyce K. Huston as Chief of the Division of Southeast Asian Affairs, effective June 1, 1945.

[1] Departmental Order 1323, dated and effective May 26, 1945.

PUBLICATIONS

DEPARTMENT OF STATE

Health and Sanitation Program: Agreement Between the United States of America and Bolivia—Effected by exchange of notes signed at La Paz August 1 and 8, 1944. Executive Agreement Series 445. Publication 2334. 6 pp. 5¢.

Foreign Consular Offices in the United States, March 1, 1945. Publication 2329. ii, 49 pp. 15¢.

FOREIGN COMMERCE WEEKLY

The articles listed below will be found in the June 9 issue of the Department of Commerce publication entitled *Foreign Commerce Weekly*, copies of which may be obtained from the Superintendent of Documents, Government Printing Office, for 10 cents each:

"Greek Naval Stores During Enemy Regime", by Karl L. Rankin, commercial attaché, American Embassy, Athens.

"Construction Materials in Liberated France", by E. Allen Fidel, junior economic analyst, American Embassy, Paris.

THE FOREIGN SERVICE

Embassy at Prague

The American Embassy at Prague was reestablished on May 29, 1945.

Consular Offices

The American Consulate at Camagüey, Cuba, was closed to the public on May 31, 1945.

The American Vice Consulate at Iquitos, Peru, was closed to the public on June 5, 1945.

Confirmations

On June 7, 1945 the Senate confirmed the nomination of Monnett B. Davis to be American Envoy Extraordinary and Minister Plenipotentiary to Denmark and Paul H. Alling to be American Diplomatic Agent at Tangier.

THE CONGRESS

Outline of the Progress of the War. Message from the President of the United States transmitting an outline of the progress of the war and a brief summary of the military objectives now confronting the armed forces of the United States. H. Doc. 213, 79th Cong. 12 pp.

Recognition of Italy as an Ally: Hearings before the Committee on Foreign Affairs, House of Representatives, Seventy-ninth Congress, first session, pursuant to H.J. Res. 99, a joint resolution requesting the President to recognize Italy as an ally, and to extend lend-lease aid. April 11, 1945. v, 106 pp.

International Office of Education: Hearings before the Committee on Foreign Affairs, House of Representatives, Seventy-ninth Congress, first session, on H. Res. 215, a resolution urging the formation of an organization to be known as the International Office of Education. May 10, 15, and 17, 1945. iii, 83 pp. [Department of State, pp. 14–31, pp. 43–58.]

Official Papers Relating to Territories of the United States. H. Rept. 704, 79th Cong., to accompany H.R. 2522. 2 pp. [Favorable report.]

Bretton Woods Agreements Act: Hearings before the Committee on Banking and Currency, House of Representatives, Seventy-ninth Congress, first session, on H.R. 2211, a bill to provide for the participation of the United States in the International Monetary Fund and the International Bank for Reconstruction and Development. Volume 2. April 18, 19, 20, 27, 30, May 1, 2, 3, 4, 5, 7, 8, 9, 10, and 11, 1945. vi, 820 pp.

Sale of Certain Government-Owned Merchant Vessels: Hearings before a subcommittee of the Committee on Commerce, United States Senate, Seventy-ninth Congress, first session, on S. 292, a bill to provide for the sale of certain Government-owned merchant vessels, and for other purposes. May 7 and 8, 1945. iii, 76 pp.

Organization of Congress: Hearings before the Joint Committee on the Organization of Congress, Congress of the United States, Seventy-ninth Congress, first session, pursuant to H. Con. Res. 18, a concurrent resolution establishing a joint committee on the organization of the Congress. Part 2, April 2, 4, 6, 16, 17, 20, 24, 27, and 30, 1945. iii, 230 pp.

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